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# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 264

DATE: Thursday, November 22, 1990

BEFORE:

A. KOVEN Chairman

E. MARTEL Member



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council  
(O.C. 2449/87) authorizing the  
Environmental Assessment Board to  
administer a funding program, in  
connection with the environmental  
assessment hearing with respect to the  
Timber Management Class  
Environmental Assessment, and to  
distribute funds to qualified  
participants.

-----  
Hearing held at the offices of the Ontario  
Highway Transport Board, Britannica Building,  
151 Bloor Street West, 10th Floor, Toronto,  
Ontario, on Thursday, November 22nd, 1990,  
commencing at 9:00 a.m.

-----  
VOLUME 264

BEFORE:

MRS. ANNE KOVEN  
MR. ELIE MARTEL

Chairman  
Member





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A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH )	RESOURCES
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MR. B. CAMPBELL )	
MS. J. SEABORN )	MINISTRY OF ENVIRONMENT
MS. B. HARVIE )	
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I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>GEORGE MAREK</u> , Resumed	47704
Continued Cross-Examination by Mr. Freidin	47704





I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1587	Sketch of strip cuts and stocking results prepared by Mr. Freidin.	47834





1 --Upon commencing at 9:20 a.m.

2 MADAM CHAIR: Good morning. Please be  
3 seated.

4 Before we start, Mr. Friedin, there was  
5 an announcement about some changes for the last week of  
6 November and the first week of December.

7 We will be adjourning at noon on  
8 Thursday, November 29th, and the Board will not be  
9 sitting on December 3rd, but we will be starting at  
10 9:00 a.m. on Tuesday, December 4th.

11 MR. FREIDIN: Thank you.

12 MADAM CHAIR: Mr. Freidin?

13 GEORGE MAREK, Resumed

14 CONTINUED CROSS-EXAMINATION BY MR. FREIDIN:

15 Q. Hopefully a very quick question on  
16 another Foster and Morrison article, Mr. Marek, it's in  
17 your source book. It's contained at page 85 of the  
18 proceedings of the workshop in relation to site  
19 preparation compiled by Corbett. So I think it's  
20 probably in your source book 1 under Corbett.

21 THE WITNESS: I've got source book 2.

22 ---Discussion off the record

23 MR. FREIDIN: It's talking about Corbett.

24 MR. MARTEL: What page is it, please?

25 MR. FREIDIN: Page 30.

1 MS. SWENARCHUK: Of Corbett?

2 MR. FRIEDIN: Corbett. The document is  
3 the proceedings of the workshop in relation to site  
4 preparation, and there are papers by different authors.  
5 Foster also made a contribution.

6 THE WITNESS: Page 30?

7 MADAM CHAIR: Yes. I'm actually going to  
8 just slow down the pace a little bit.

9 MR. FREIDIN: Q. Page 28 is where we  
10 find the title of the article--

11 A. Yes.

12 Q. --dealing with the effects of site  
13 preparation and full-tree logging on nutrient cycling.

14 A. Site preparation and full-tree  
15 logging, yes, that's right.

16 Q. And it's just the passage on page 30  
17 that I want to draw to your attention. It says at the  
18 top of the page, and it's dealing with nutrients.

19 A. Yes, I have that.

20 Q. "In the natural state, release  
21 of the nutrients contained in the forest  
22 floor organic layers is often dependent  
23 on cycling through fire disturbance. A  
24 severe fire, in addition to favouring  
25 rapid mineralization of many nutrients,



1 can contribute to a reduction in the  
2 nitrogen capital of the site. In a  
3 managed forest, the organic layer of  
4 nutrients in soil will be disturbed less  
5 through site preparation such as  
6 prescribed burning and sheer blading to  
7 avoid potential losses in future forest  
8 productivity."

9 Q. When I raised that, I just  
10 interpreted that as being one situation where proper  
11 manipulation through site preparation, in fact, will  
12 result in fewer nutrients--

13 A. Or losses.

14 Q. --being lost from the site than would  
15 occur through--

16 A. Fire.

17 Q. --fire. And you agree with that  
18 proposition?

19 A. Yes, I agree. One problem I see,  
20 this is a very simplistic and short examination of  
21 Corbett, but very much -- but yes, in principle, I  
22 agree with his proposition here, right.

23 Q. So we can achieve regeneration of the  
24 site and bring in this kind of more productive state?

25 A. That's correct.

1 Q. And if we do that properly we can end  
2 up, in fact, losing fewer nutrients from the site  
3 through disturbance of the forest floor than through a  
4 fire?

5 A. Depends on the fire.

6 Q. And again we are talking about--

7 A. He's talking about prescribed  
8 burning.

9 Q. And he's talking about we can lose  
10 fewer nutrients than what we would due to, what he  
11 says, is a severe fire?

12 A. That's correct.

13 Q. Thank you. At page 45 of your  
14 witness statement.

15 A. Forests for Tomorrow?

16 Q. Yes, sir.

17 A. Okay. 45.

18 Q. Which is the section in relation to  
19 artificial regeneration and planting in particular..

20 MS. SWENARCHUK: Artificial?

21 MR. FREIDIN: Artificial regeneration and  
22 planting in particular.

23 THE WITNESS: Page 45.

24 MR. FREIDIN: Q. Yes. At page 45 you  
25 indicate at the bottom.



1 A. Yes.

2 Q. Second last line.

3 A. Yes. (handed)

4 MADAM CHAIR: Thank you, Mr. Marek.

5 MR. FREIDIN: Q. That no white spruce --

6 MADAM CHAIR: Excuse me. Just one

7 moment, Mr. Freidin.

8 ---Discussion off the record

9 MR. FRIEDIN: Q. On the bottom of page  
10 45 in the second last line, Mr. Marek--

11 A. Yes.

12 Q. --you make the statement:

13 "No white spruce planting is produced."

14 A. That's right.

15 Q. I would like to -- well, on what  
16 basis do you make that statement?

17 A. This is a statement which should  
18 be -- it's a general statement where I have tried to  
19 point out that comparing to the -- in the past there  
20 was quite a bit of white spruce planted, and now I  
21 don't see any white spruce plantation being established  
22 in the boreal forest, or very rarely.

23 Now, I don't know if white spruce is  
24 still produced in small numbers here and there, but I  
25 don't see any plantation of white spruce being

1 initiated.

2 Q. You'll have to help me, Mr. Marek.  
3 Yesterday you've indicated that Forests for Tomorrow's  
4 terms and conditions, which you support, indicate that  
5 you should use the white spruce seed tree method--

6 A. Seed tree method.

7 Q. --in all cases in mixed wood stands;  
8 right?

9 A. In all purpose forestry, yes.

10 Q. Yes. In mixed wood stands?

11 A. In all purpose forestry.

12 Q. All right. In multi-purpose forests.

13 A. In multi-purpose forests.

14 Q. So the concern about a lack of the  
15 production of white spruce seedlings would be their --  
16 the lack of their availability for areas where you  
17 believe that there should be this intensive  
18 management --

19 A. Correct.

20 Q. Okay. In Ontario, when we talk about  
21 the harvesting of spruce, would you agree that the  
22 large, large majority of the spruce that would be  
23 harvested would be black spruce as opposed to white  
24 spruce?

25 A. You said would be?

1 Q. Yes. Is, is.

2 A. Oh, is. Right now, yes, black spruce  
3 volumes are way over the white spruce.

4 Q. All right. I'd like to direct your  
5 attention to the statistics for the Ministry of Natural  
6 Resources 1988/1989 which is Exhibit 42.

7 A. Yes, I have it someplace.

8 MS. SWENARCHUK: You didn't give us a  
9 list of exhibits.

10 MR. FREIDIN: This was the list of  
11 exhibits -- I arranged for someone to call everybody  
12 and I assumed they called your office as well, I think.

13 Q. But in any event, let me just show  
14 this to you --

15 A. That's fine, quote.

16 Q. It's very, very brief.

17 A. I think I locate it, I had it home.

18 Q. I'm looking at page No. 6.

19 A. Yes.

20 Q. And it indicates, for 1989 the number  
21 of white spruce seedlings produced was 14,943,550. And  
22 I just want to know: Were you aware of that figure  
23 when you prepared your witness statement and stated  
24 that --

25 A. No, I was not aware of that figure at



1       that time.

2                   Q.   All right.  Thank you.  And in terms  
3       of the volumes harvested, at page 47 of your witness  
4       statement--

5                   A.   Yes?

6                   Q.   --in relation to the subject matter  
7       of white spruce, if you go down into the last full  
8       paragraph, five lines, it states:

9                   "The volumes harvested annually..."  
10       referring to white spruce.

11                  A.   Yes.

12                  Q.   "...from natural stands in the boreal  
13       forest are considerable and it is of  
14       prime importance to the lumber industry  
15       of Northern Ontario."

16                  A.   Exactly.  Lumber industry in Ontario  
17       cannot exist without white spruce, to some degree jack  
18       pine, but I think white spruce is a very important part  
19       of our lumber industry demand.

20                  Q.   Now, I just should show you this so  
21       you know what I'm referring to.  There's a table here  
22       on page No. 21 of Exhibit 42 which talks about volume  
23       and values of timber cut from Crown Lands for the year  
24       ending March 31st, '88.

25                  And we go down and they have the

1 softwoods in the left-hand column--

2 A. Correct.

3 Q. --and they have under white spruce,  
4 89--

5 A. 89,633,602 cubic metres.

6 Q. All right. And leaving that aside,  
7 and we'll talk about spruce mix in a minute.

8 A. Mix, yes.

9 Q. But let's leave that for the moment.

10 A. Yes.

11 Q. My calculation indicates that the  
12 amount recorded here for white spruce is .5 per cent of  
13 the total softwood harvested in that particular year.

14 A. Could be, yeah. Yeah.

15 Q. All right. And were you aware of  
16 that figure when you made your statement that there is  
17 a considerable amount of white spruce harvested in  
18 Ontario?

19 A. Yes, I'm aware of the quantities.

20 Q. All right.

21 A. Not exactly, but I'm aware what kind  
22 of contribution white spruce does in the production of  
23 timber.

24 Q. Okay. And just to be fair to you,  
25 there's another section here that says underneath white

1 spruce, spruce mixed.

2 A. Yeah.

3 Q. That would include black spruce and  
4 white spruce, it just would be spruce which had not  
5 been reported by species individually?

6 A. Yes. I see the heading.

7 Q. And, therefore, a portion of the  
8 eight million, one hundred and ninety -- well, this big  
9 figure here for spruce mix, part of that would be white  
10 spruce?

11 A. Yes.

12 Q. But based on your earlier evidence it  
13 wouldn't be very much because the large, large majority  
14 of the spruce which is harvested in Ontario is black  
15 spruce as opposed to white spruce?

16 A. Yes.

17 Q. Thank you.

18 A. Madam Chair, may I just add just a  
19 word or two about my statement in my testimony here.

20 I'm acute aware of lack of planting of  
21 white spruce. I'm aware of -- matter of fact, I did  
22 not in last year or two, I did not see any, through my  
23 travels, I didn't see any white spruce being planted, I  
24 have seen many jack pine and black spruce, but I didn't  
25 see white spruce.



1 But the point here is that white spruce  
2 is very important part in the soil production and high  
3 quality of products in Ontario.

4 We have many sawmills now which are  
5 lacking in northern Ontario of this volume of white  
6 spruce, they are frantically searching for additional  
7 volume and they are not in hand. So I thought maybe in  
8 my report I will produce the statement.

9 Q. Just so the record is clear, I'm  
10 advised by Mr. Waito that the figure is 89,633.62 cubic  
11 metres.

12 A. Yes.

13 Q. Not 89-million. You said 89-million.

14 A. Oh, I see.

15 Q. It's 89,633; is that correct?

16 A. Where?

17 Q. Here.

18 A. Well, that's right, here's a comma  
19 here. So, 89,000, that's correct.

20 Q. Okay, thank you. Now, Mr. Marek, we  
21 had a discussion yesterday about the stocking, if you  
22 recall, I had done a calculation as to the number of  
23 plots per square mile that had been done in the Thimble  
24 Creek area.

25 A. Okay.

1                   Q. I have the calculation here that I  
2                   said I would give to you. I will give it to you during  
3                   the break and some time during the day you can look at  
4                   it. As you see, it is very brief and I just wanted you  
5                   to check that my math is correct.

6                   In relation to a question that arose from  
7                   Madam Chair, as I understood it, was whether in fact --  
8                   what the common practice is in Ontario in terms of the  
9                   number of plots that are done for when you do a  
10                  stocking assessment now.

11                  And, Mr. Marek, in terms of that matter,  
12                  it is my present information that when laying out plots  
13                  for stocking surveys, the present practice will result  
14                  in a minimum of .8 plots per acre which, if we worked  
15                  that out for plots per square mile, is approximately  
16                  220. Now, are you able to--

17                  A. Confirm.

18                  Q. --confirm the accuracy of my  
19                  information?

20                  A. That's the first time I hear about  
21                  it. I always thought it was done on two per cent, two  
22                  per cent of the area, that's what I understood from my  
23                  past experience and working within the -- two per cent,  
24                  usually.

25                  MR. FREIDIN: And, Madam Chair, I'll have

1 to, and I do undertake to, in fact establish the basis  
2 of my information in reply evidence.

3 MADAM CHAIR: Okay.

4 THE WITNESS: The question I would like  
5 to ask, Madam, is this: Madam Chair, from my past  
6 experience with MNR, we've always had a problem to  
7 establish this quota because we ran out of money and  
8 the assessment was always considered as a last  
9 priority.

10 Now, it may have changed now, I do not  
11 work for MNR, obviously, but I had a problem with  
12 establish any kind of consensus or how much we are  
13 going to assess, because the assessment, "assessment",  
14 always be the last priority.

15 So, in many instances we just couldn't do  
16 it because we didn't have the money to do that with.

17 MR. FREIDIN: Q. I think what I was  
18 suggesting to you - and I think the Ministry had  
19 indicated -- had similar concerns about the amount of  
20 funding for doing some of these things - and I'm  
21 suggesting to you when plots are laid out on the  
22 ground, when they are laid out on the ground, we end up  
23 with the number of plots that I suggested.

24 A. I don't know. I cannot confirm, I  
25 cannot tell you.



1 Q. Okay. Now, can we just go back to  
2 the Forests for Tomorrow terms and conditions.

3 A. Yes.

4 Q. And --

5 A. Go ahead.

6 Q. No, I think it's important that you  
7 have them.

8 A. It is important, go ahead. I have  
9 found it here, I put it here yesterday. Will you help  
10 me out?

11 MS. SWENARCHUK: Yes, I'll look here, you  
12 look there. Here it is.

13 ---Discussion off the record

14 THE WITNESS: Yes, go ahead.

15 MR. FREIDIN: Q. Looking at the bottom  
16 of the first page, term and condition 1.1(h)--

17 A. Correct.

18 Q. --which requires prescriptions  
19 shall -- it says:

20 "Prescriptions shall require the use of  
21 extensive silviculture on all sites and  
22 stands capable of natural regeneration of  
23 primary coniferous species."

24 And then it goes on and indicates when  
25 intensive silviculture may be used.

1           Could you tell me, Mr. Marek, does 1.1(a)  
2       apply; in other words, does 1.1(a) qualify 1.1(h) such  
3       that the stands must be capable of natural regeneration  
4       of primary coniferous species to the species and  
5       density of the stands that are harvested? Do you  
6       understand my question?

7           A. Go ahead again, please.

8           Q. All right. Take a look at 1.1(a).

9           A. I am looking.

10          Q. 1.1(a) says--

11          A. Results --

12          Q. --that:

13               "Prescriptions shall result in stands  
14       equal to the species and density of the  
15       stands that are harvested."

16          Do you see that?

17          A. Yes.

18          Q. Does that requirement apply when  
19       someone is trying to comply with subsection (h)? I'm  
20       assuming that it does, I just want you to confirm that  
21       that's the case, that --

22          A. Okay. Madam Chair, I think this has  
23       been covered before. However, just to be clear, the  
24       (a) -- the 1.(a) here deals obviously with quality and  
25       quantity of stands which will -- which we try to

1 regenerate. That extensive silviculture apply on an  
2 area; in other words, here is the quality and here we  
3 talk about quantity. Extensive silviculture means on  
4 the broader horizon. That has been discussed  
5 yesterday.

6 Now, counsel has tried to correlate these  
7 two aspects, quality and quantity, and in that field I  
8 would say there is compatibility.

9 Q. All right.

10 A. Is that what you want?

11 Q. Yes, I think we are getting there.

12 A. You're getting close. Okay.

13 Q. So that when you are having a  
14 prescription developed under 1.1(h), then it's got to  
15 meet the quality and quantity requirements of 1.1(a)?

16 A. But again under the -- there are two  
17 conditions involved and, that is, extensive management  
18 in stands like this over large area and quality of  
19 stands which we try to establish.

20 Q. In your evidence, Mr. Marek, I think  
21 we agreed that the intent of 1.1(h) was to require the  
22 use of natural regeneration as a first attempt at  
23 regeneration of black spruce on all areas which would  
24 fall into your multi-purpose forest?

25 A. That is correct.



1 Q. In your evidence, sir, you referred  
2 to --

3 A. Not exclusively, not -- again, we  
4 have certain standards carved in stone or, and I have  
5 cautioned you, sir, that in many instances we must  
6 prevent this carving in. There is a flexibility, there  
7 is a manager's option to all kinds of manipulation, and  
8 I call it manipulation in order to achieve the  
9 objective.

10 And I would like to point out again that  
11 this so-called FFT draft terms and conditions,  
12 silviculture prescription, is summing -- what, three,  
13 four, five pages - where we going to deal in practice  
14 we may have probably 50 pages. So I think that has  
15 been said before, and I...

16 No, if you are going to analyze every  
17 words and every connection between, we going to get in  
18 a bottle neck, I'm quite sure.

19 Q. All right. You have indicated that  
20 the intent is then to have options available even in  
21 relation to 1.1.(h). My question for you is: Does  
22 that include the option to plant as the initial  
23 regeneration method?

24 A. When you talk about -- again, you are  
25 asking me yes or no, and I have to qualify because

1       there are certain gray area between which are most  
2       important.

3                   Q.   Yes.

4                   A.   And may I point out to you, sir, that  
5       I have said many times that planting by itself is  
6       applicable all over scope of conditions. We said  
7       yesterday on many occasions that if natural  
8       regeneration fail, you have to plant.

9                   Q.   If natural regeneration fails, you  
10      have to plant, yes.

11                  A.   You have to plant.

12                  Q.   Yes.

13                  A.   Because there is no option and we  
14      have a duty to regenerate or renew the forest, so we  
15      have to do it one way or the other.

16                  Okay. So if you talk about multi-purpose  
17      forestry as I visualize it there will be cases,  
18      obviously, that the planting will be a very important  
19      part of it. If we fail to regenerate naturally or  
20      damage has been by other means -- interference...

21                  So we have to plant trees, and I have  
22      stated I think in this document that the natural  
23      regeneration and artificial regeneration -- or if you  
24      want to, artificial regeneration and natural  
25      regeneration are the options the forester have, he

1 haven't got other option.

2 So in timber management planning process  
3 and in timber management plan, these options were in  
4 detail carved in. This is just a guidance, sir.

5 Q. All right. In your answer you  
6 indicated that if natural regeneration fails, planting  
7 is an option.

8 A. In black spruce management.

9 Q. Right. I take it, therefore, that  
10 when you say that options are available -- well, let me  
11 forget that. You're saying that when you're in  
12 multi-purpose forests--

13 A. Yes.

14 Q. --you do not have the flexibility  
15 according to these terms and conditions to say: I'm  
16 not going to try natural first, I'm going to plant  
17 first?

18 A. First.

19 Q. Is that correct? That's the intent?

20 A. No, no, that's not intent.

21 Q. In what circumstances then, in  
22 multi-purpose forests, can you say: I am going to  
23 plant this area--

24 A. Instead of natural regeneration, is  
25 that --



1 Q. Yes, instead of.

2 A. Yes.

3 Q. When can you do that?

4 A. Of course, that option does not exist  
5 according my terms -- my terms of reference for  
6 multi-purpose forestry.

7 Q. Right.

8 A. Because if you do management of black  
9 spruce, we are clearly stating right from the beginning  
10 that the natural regeneration is No. 1 objective,  
11 natural regeneration of black spruce.

12 If that regeneration fails in  
13 multi-purpose forest, then -- or other things happen,  
14 there are many things which can happen, not only  
15 failing; there are diseases involved, there is  
16 improvement planting or improvement of stands, and I  
17 don't know what else, it's a complex situation, then  
18 you will plant trees.

19 Q. Now, you have indicated --

20 MADAM CHAIR: Sorry, Mr. Freidin. Just  
21 one question, Mr. Marek.

22 THE WITNESS: Yes.

23 MADAM CHAIR: Given that black spruce has  
24 not been managed in this way to date, if your  
25 prescription were implemented immediately--

1 THE WITNESS: Yes.

2 MADAM CHAIR: --wouldn't there be some  
3 period of time where you would require planting,  
4 certain types of site preparation and planting to bring  
5 the stands into a state where you could start managing  
6 them by natural regeneration?

7 THE WITNESS: Madam, I'm going to make it  
8 very simple. We are going to have a large area in  
9 boreal forest where regeneration of black spruce failed  
10 already.

11 MADAM CHAIR: Exactly.

12 THE WITNESS: I'm talking about second  
13 growth forest, what are we going to do with the second  
14 growth forest when the presence of black spruce is  
15 minimal or does not justify and cannot be implemented  
16 in view of natural regeneration.

17 What else can you do, sir, you have to  
18 plant.

19 MADAM CHAIR: Plant. And that's the  
20 decision of the forester and based on what he has  
21 seen--

22 THE WITNESS: Exactly.

23 MADAM CHAIR: --in the forest?

24 THE WITNESS: Exactly, Madam. We going  
25 to have plenty of it, I'm quite sure, if we going to

1 establish high production area, we have to tackle the  
2 problem of second growth forests, which does not  
3 produce, as it should have been, if properly managed.

4 So we going to do lots of planting there,  
5 basically; therefore, I appeal again to you to  
6 understand the problem. The problem is that we have  
7 millions of hectares of neglected forests which have to  
8 be put into production, we have hundreds of thousands  
9 of hectares of forests which is attacked under budworm;  
10 in other words, there won't be any spruce or very  
11 minimal - very minimal representation.

12 What are you going to do, plant. But the  
13 simultaneous, that area may be declared as the all  
14 purpose forestry thing. See, this is a problem we  
15 have, how you going to allocate it --

16 MADAM CHAIR: But even in areas that are  
17 designated under your scheme for multi-purpose  
18 forestry--

19 THE WITNESS: Right.

20 MADAM CHAIR: --you might want to start  
21 with a viable forest, you might -- even for a use other  
22 than timber you might want to say: Well, I want to  
23 start with a forest and I can't get that with natural  
24 regeneration, so I have to plant.

25 THE WITNESS: That's right.



1                   MADAM CHAIR: And that's the decision of  
2 the forester and he might not want to wait 20 years to  
3 see if natural regeneration doesn't take, he knows that  
4 it won't.

5                   THE WITNESS: Madam, unfortunately, this  
6 is not only decision by forester, this is going to be  
7 decision of the planning process.

8                   MADAM CHAIR: All right.

9                   THE WITNESS: Because in many instances  
10 we will be clashing where the forester going to intend  
11 to plant and going to say: I'm not plant here, and  
12 probably going to say: Oh, you won't. You going to  
13 leave it as it is, or you going to do some other things  
14 with it?

15                   See, this is a dilemma we have now  
16 because we neglect many area of forest, and we don't  
17 know what to do.

18                   MR. MARTEL: You then have to go back, in  
19 your plan, all of the area, or in a lot of the area  
20 which you don't consider has been successfully  
21 regenerated, in addition to moving with the present  
22 plans as they're implemented, so you're going to have  
23 to attack it on two fronts.

24                   THE WITNESS: You bet. You bet, sir.  
25 And I should be talking to that subject when I'm

1 concluding my remarks, because this going to mean that  
2 we have to take drastic steps in order to keep forest  
3 going.

4 MR. FREIDIN: Q. Now Mr. Marek, you  
5 indicated that one of the situations where you would  
6 have to plant is where you have one of these second  
7 growth forests, and you've said you've come upon it and  
8 it's not very good --

9 A. Worthless.

10 Q. It's what?

11 A. It's worthless.

12 Q. It's worthless. I think you called  
13 it junk forests. You used the word junk forests, I  
14 think.

15 A. I used junk; Baskerville call it  
16 silviculture slumps.

17 Q. Okay. And so in those areas, that  
18 would be an exception to this general rule if we're  
19 trying to list exceptions, you've come across one of  
20 those and you want to regenerate black spruce--

21 A. Which was there before.

22 Q. Which was there before, which would  
23 have been there had--

24 A. If...

25 Q. --natural disturbance come through--

1 A. That's right.

2 Q. --and everything...

3 a. That's right, exactly.

4 Q. You can plant.

5 A. That case. Well, what else can you  
6 do there?

7 Q. All right, that's fine. Now, as I  
8 understood your slides, some junk forests you say were  
9 created as a result of the type of regeneration that  
10 was or was not done in the past.

11 A. Right.

12 Q. I also understood from your slides,  
13 sir, that because of fire control, fire protection  
14 there are stands out there - these are virgin stands if  
15 I can call it - fire originated stands--

16 A. Correct.

17 Q. --which aren't subjected to fire and,  
18 as a result, they start breaking up and you start  
19 getting balsam fir coming in.

20 A. Correct.

21 Q. Some of those stands have not been  
22 accessed yet; is that a fair statement?

23 A. Correct.

24 Q. So that as areas are accessed for the  
25 purposes of timber management, some stands will be in

1 this unsatisfactory state, not because of past  
2 silviculture but just because nature has not been  
3 allowed to take its course in terms of fire  
4 disturbance?

5 A. Correct.

6 Q. I take it then, in those areas,  
7 although you're going into a black spruce stand,  
8 because it will be in this unsatisfactory state,  
9 planting will also be permitted?

10 A. According to feasibilities to apply  
11 natural regeneration versus planting, there are certain  
12 criteria which has to be put to the forester or he's  
13 aware of it put before public and say: What are we  
14 going to do?

15 Here he said: No chance to get natural  
16 regeneration, planting is the only option, let's plant  
17 it because it's ugly.

18 Q. Okay. The forester who makes that  
19 decision, I take it would be the forester who has  
20 responsibility for managing the forest management unit  
21 in question?

22 A. I just said two seconds ago, that if  
23 all these plans scrutinized by public, if public are  
24 going to decide a certain area is in a situation where  
25 planting is the only consensus to get black spruce



1 back, surely it's common sense that the forester is  
2 going to look at it again and going to say: Okay, I  
3 agree or I disagree, let's discuss, let's discuss what  
4 we going to do.

5 Q. Yes.

6 A. And if he, according to his own  
7 perception--

8 Q. Yes.

9 A. --will get spruce back, he goes to  
10 the public and say: Look, this is going to be, this is  
11 going to happen, and so declare it - or discuss it.  
12 Then, of course, the prescription will be put in the  
13 timber management plan and implemented.

14 Q. What --

15 A. You see what I'm trying to tell you,  
16 sir, is that input by public that we finally got this  
17 issue what you talking about, George Marek going to  
18 establish Limestone Lake, regardless what anybody says,  
19 going to plant trees, and everybody says he's a God --  
20 I am going to put it before public, because that  
21 decision has to be made by public, what we want from  
22 our forests.

23 In other words, the goals and objective  
24 got to be decided by public, the scientific input of  
25 forester who going to implement it.

1 Q. Okay.

2 A. Is that clear?

3 MADAM CHAIR: Yes.

4 MR. FREIDIN: Q. And I guess the  
5 question then becomes, if we're dealing with what is  
6 required to regenerate the site and the professional  
7 forester is strongly of the view that planting is  
8 required --

9 A. And plants --

10 Q. No, no, no, and he asks for input to  
11 the public, explains that to the public, and the public  
12 say: We don't think it's necessary, all right, we want  
13 a good forest back, and the forester says: It has to  
14 be planted if you want it back, and they say: No, no,  
15 we don't agree with you, just do it naturally.

16 A. And are wrong.

17 Q. Who has the responsibility in that  
18 situation to make the ultimate decision as to what  
19 silvicultural prescription will be applied?

20 A. You are picturing there the most  
21 negative approach to forestry, sir.

22 Q. Well, I'm --

23 A. Most negative, but I agree it exists  
24 and exists for very specific reason, because we didn't  
25 sell proper forestry to the public as yet.

1 Q. And I agree that there's a task  
2 perhaps, there's a task to improve this communication.

3 A. You bet.

4 Q. The ultimate decision would be for  
5 the public and the forester to agree on what should be  
6 done to achieve their common objective of having a good  
7 forest, but we've got to deal with the situation that's  
8 at hand.

9 How are you going to deal with that in  
10 the situation where there was a lack of consensus?

11 MR. MARTEL: Could I ask a question,  
12 because isn't the problem up to this time that, in  
13 fact, people either weren't consulted or consulted so  
14 late and in such a minor way that, in fact, they are  
15 suspicious?

16 There is a suspecting public out there  
17 that doesn't believe that they're doing anything else  
18 but maybe rubber stamping, that they've got to get in  
19 sooner as part of the overall process so that they're  
20 educated and agree to things as you go along, as  
21 opposed to coming in at the last moment and just rubber  
22 stamping. Am I right--

23 THE WITNESS: Mr. Martel, you --

24 MR. MARTEL: --in my assessment?

25 THE WITNESS: Madam Chair, Mr. Martel

1 couldn't express this more accurately than actually is.  
2 That's --

3 MS. CRONK: I would point out, Madam  
4 Chair, obviously the witness' opinion I don't object to  
5 being solicited at all, but you do have conflicting  
6 evidence on that. I simply point that out, you do have  
7 other evidence.

8 MADAM CHAIR: Yes, we do, Ms. Cronk.

9 Mr. Martel has raised a question and he  
10 would like Mr. Marek's opinion on whether he sees that  
11 perception of the public's involvement as being  
12 something he would --

13 THE WITNESS: Madam Chairman, all my  
14 testimony -- this is why I'm here today actually, I was  
15 waiting for this question. How come -- or you want to  
16 start arguing, I'm talking forestry and I'm sorry...

17 MS. SWENARCHUK: Now he tells me.

18 MR. MARTEL: Go ahead.

19 THE WITNESS: Mr. Martel and Madam Chair,  
20 one of the problem we have now that indeed public is  
21 not trusting foresters. I just had news from British  
22 Columbia and I have news all over, even Ontario, which  
23 says something like this.

24 MS. CRONK: Well, I'm sorry, Madam Chair  
25 and Mr. Martel, to rise on this, and it is important



1 that you receive a full and complete answer, sir, and  
2 I'm not objecting to that at all, but I do very much  
3 object to perceptions based on hearsay evidence from  
4 other jurisdictions.

5 All this particular witness can respond  
6 to is his own personal opinion based on his own  
7 observations and his representations of the Beardmore  
8 Society.

9 This is a contentious issue. We've had  
10 evidence from a number of foresters who do not agree at  
11 all with the views that have been expressed, and I  
12 think in the circumstances, therefore, all he can give  
13 you is his own opinion based on those he represents,  
14 which happens to be Forests for Tomorrow and the  
15 Beardmore Society in this part of the world; not B.C.  
16 and Ontario at large, and his understanding outside of  
17 the boundaries of that.

18 That's my respectful submission.

19 THE WITNESS: Madam Chair, are we blind  
20 not reading newspaper or lawyers cannot read newspaper?

21 MS. SWENARCHUK: Excuse me a moment, Mr.  
22 Marek.

23 I disagree with Ms. Cronk. You have  
24 asked Mr. Marek his opinion. His opinion is formed by  
25 all of those influences and areas of information that

1 he has examined and considered as a professional  
2 working a lifetime in this field and, in my submission,  
3 he's entitled to respond to your question and in that  
4 response present to you exactly the sources of  
5 information that have influenced his thinking, and if  
6 those sources come from British Columbia and other  
7 parts of Canada that lead to certain conclusions, I  
8 think he's entirely entitled to tell you that.

9 MR. MARTEL: Well, I guess that's why I  
10 raised the matter. I agree with Ms. Cronk, I've heard  
11 from other foresters, but it's their background from  
12 where they've heard -- where they draw from their  
13 experience as to the area they work in, and the forces  
14 they're influenced by, and so naturally you're going to  
15 get a difference of opinion.

16 MS. CRONK: I have no objection to his  
17 opinion being expressed to you at all, sir, it was just  
18 the way that it was starting to be said that caused me  
19 some difficulty because I would be unable to question  
20 him about it.

21 I have nothing further to add. I don't  
22 mean to delay the proceedings, I'm concerned about what  
23 was started to be said.

24 MADAM CHAIR: Mr. Marek, we don't want to  
25 get too far off topic, but obviously Mr. Martel wants

1 to hear your opinion in this matter.

2 THE WITNESS: My opinion is that majority  
3 of public, majority of public I have sampled and I  
4 represent state this - and I'm going to put it in  
5 nutshell - you foresters may argue amongst each other  
6 what is good or bad, but it's our land and we want to  
7 have a decision-making process accepting or  
8 understanding our concerns.

9 I know the forestry profession is split  
10 right in half in each province on how we're going to  
11 treat our forests; will we treat it as in the past or  
12 presently as suggested by many people, these  
13 agricultural approaches; in other words, management  
14 helping or using agriculture approach.

15 On the other hand there are many  
16 foresters who say, let's change it, let's approach the  
17 management from the different angle, which I call  
18 multi-purpose forestry.

19 Madam Chair, you cannot have both  
20 everywhere. There will be certain compromises  
21 necessary and I think the forester have to agree sooner  
22 or later which pass Canadian forestry - I'm not talking  
23 about the Ontario forestry, I'm talking about Ontario,  
24 Winnipeg.

25 MR. MARTEL: Mr. Marek, what I'm trying

1 to get at though is the concern the public has. In  
2 this you're talking about foresters and they're being  
3 split in two and the whole shmeat. I'm worried about  
4 how the public gets into the act.

5 I mean, Mr. Freidin's question is: Who  
6 makes the ultimate decision? If you've got this  
7 planning that you're talking about, then who's going to  
8 make the ultimate decision; is it going to be the  
9 forester in charge of the plan, or is it going to be  
10 the public, or what combination or what parameters are  
11 going to be there.

12 MR. FREIDIN: In relation to what  
13 silvicultural prescription should be implemented to in  
14 fact achieve a common objective of getting back a  
15 certain kind of forest.

16 MR. MARTEL: Right. And that's what I  
17 want to hear. I don't want to hear about the  
18 arguments about foresters in various provinces, I want  
19 to know what the problem is or what I perceived, as I  
20 indicated while I was asking, my perception.

21 I'm asking you, how do we -- what has  
22 triggered this concern and how do we get around it to  
23 come back to making an ultimate and final decision?

24 THE WITNESS: What triggered the concern?  
25 The answer is simple, they do not, majority of the



1 public do not trust decision-makers of today.

2 MR. MARTEL: All right. Then, if you're  
3 going to take the next step, how do we involve the  
4 public to get -- so that they in fact have some input,  
5 but who makes the final decision? I mean, the buck's  
6 got to stop somewhere.

7 MADAM CHAIR: We have Mr. Marek's  
8 evidence on that, he said the forester makes the final  
9 decision.

10 THE WITNESS: No, Madam, I have -- I'm  
11 sorry now we are really bind, because I have stated  
12 that the public, our political master in democracy will  
13 decide who is right and wrong. After all, I'm just  
14 a -- or I was a civil servant and on this other side  
15 you have a public, you have a corporation which have  
16 their own subjective view on many things, they are  
17 people in democracy.

18 According to my perception of proper  
19 forestry is, that indeed our political masters will  
20 decide what's right and wrong because it's a public,  
21 it's a common property of all of us and who else going  
22 to...

23 But, this decision is based on honest  
24 advice of a civil servant, the unit forester for  
25 instance, on the honest perception of the public how

1 they see, and many other agencies.

2 We have to come to some kind of synthesis  
3 here where the political master is going to decide, the  
4 Minister going to decide: Okay, this is what we're  
5 going to do, this is the philosophy we have on forestry  
6 in Ontario which may be -- no, economics one way, the  
7 other may be ecological consideration and all kind.

8 They are the master, they will eventually  
9 guide our forest industry, our public, including  
10 myself, to some conclusion what forestry means.

11 And one of the problem public has right  
12 now says in the economics side of the forestry, which  
13 is protected by forest industry, the ecological aspect  
14 or the biological concern, the human aspect of our  
15 forestry, and many in the government who cannot make  
16 the decision he says: Oh, how should I poke into this,  
17 that's -- you know, politics is politics.

18 But ultimately, Madam Chair, the  
19 political decision will be guided or will be guided,  
20 like, into the forest implementation of Ontario, and  
21 that's all I can say.

22 MADAM CHAIR: No, that's fine, Mr. Marek.  
23 This has been a very wide-ranging discussion about the  
24 forest policy of the entire province of Ontario. I had  
25 made the comment about a forester making decisions at

1 the level of the local forest--

2 THE WITNESS: In the view of the total  
3 forest management planning process, input in it, the  
4 forester will -- and perhaps I can add to this, why  
5 forester? There are many people nowadays, Madam Chair,  
6 who would like -- who wish to take that responsibility  
7 away from them.

8 I represent group, and it's not FFT, it's  
9 not any -- who telling me, I don't trust forester to  
10 manage that land, I don't trust him with management  
11 planning in a process and as a main decision-maker.

12 I going to put it to the biologist, or I  
13 going to put it to the planner, or I going to put it  
14 Mayor of Geraldton for that matter.

15 No, no, this is the case. I deal with  
16 this situation every day, Madam, and it's come again  
17 and again the question: Who will be responsible. And  
18 I say to this, and I repeat, if our political masters,  
19 regardless what party they are, going to decide that  
20 forest management in Ontario will be directed in such a  
21 way, it's a more philosophical question than anything  
22 else, but they decide, then the timber manager, then  
23 the company, then the ecologist in democratic process  
24 have to accept these decision and manage the forest,  
25 because it belongs to all of us.

1 MADAM CHAIR: Thank you, Mr. Marek.

2 Mr. Friedin?

3 MR. FREIDIN: Q. Let me--

4 MS. SWENARCHUK: Next question?

5 MR. FREIDIN: Q. --try to focus your  
6 mind on a management unit.

7 A. Correct. Let's go to it.

8 Q. Okay. I'm going to go back to some  
9 of my earlier questions. I've asked you this about who  
10 ultimately decides. We started all of this by me  
11 asking you whether a forester on a management unit  
12 could decide to plant a cutover before he tried to do  
13 natural regeneration on the black spruce, and I  
14 understood your evidence to be, no, you must -- on a  
15 multi-purpose forest you must attempt natural  
16 regeneration as set out in these--

17 A. Right.

18 Q. --in relation to black spruce first--

19 A. Right.

20 Q. --and you can only plant if the  
21 natural regeneration fails; right?

22 A. Right.

23 Q. There are some exceptions we talked  
24 about.

25 A. That's true.



1 Q. Encountering your undesirable forests  
2 either because of--

3 A. Yes, yes, yes.

4 Q. --past practices or just age  
5 deterioration; right?

6 A. Yes.

7 Q. Okay. Dealing with that issue, you  
8 indicated in your evidence a number of times about the  
9 importance of site and species in prescription setting,  
10 everything is so site and species-specific.

11 You spoke a number of times about the  
12 thousand different forests out there, and it seems to  
13 me, Mr. Marek - and I ask you to respond to this  
14 suggestion - that your evidence about all these site  
15 and species-specific and thousand forests is  
16 inconsistent with the proposition that all black spruce  
17 sites will always be capable of natural regeneration  
18 and, therefore, you should always attempt natural  
19 regeneration first; that there are no circumstances in  
20 which it makes sense silviculturally and economically  
21 to plant first.

22 I see an inconsistency, and I would ask  
23 you to respond to that suggestion, sir.

24 A. Of course I do not see inconsistency,  
25 obviously, that's why I had late night and it took me

1 more than one hour to come to some kind of  
2 "prescription" which represent the FFT and my own  
3 professional opinion.

4 Sir, may I point out to you again, again,  
5 that when our goals and objective will be multi-purpose  
6 forest, we have to start basically with natural  
7 regeneration to try to accomplish some kind of renewal  
8 of the original stands. That's one philosophy.

9 You are coming to me and say: No, we're  
10 going to plant trees and we're going to do what's being  
11 done right now in some of the licenced area, on some of  
12 the FMA because we going to achieve better production  
13 of timber, we going to achieve instead of 10, 15 or 25  
14 cords per acre, we going to achieve 50 cords per acres.  
15 This is delusion. These two things do not match.

16 Q. I'm sorry?

17 A. These two things do not match; in  
18 other words, you can't accomplish these two things.  
19 If you wish to plant, tend, chemically treat the areas,  
20 do it in intensive areas, you get what you want maybe,  
21 if you don't do it, your tough luck.

22 But in a multi-purpose forestry your  
23 natural regeneration is basically the beginning of the  
24 new forest, not replacing forests with something else,  
25 but try to duplicate what was there before.

1                   And that is a philosophy which, I think,  
2   is accepted throughout the whole world. Industry, of  
3   course, opposed to it because they say: I can produce  
4   double on the area of what nature gave us, and that may  
5   be correct in some instances, but once you have a  
6   multi-purpose forest you cannot do it because  
7   immediately you are turning multi-purpose forestry into  
8   one, maximization of timber management.

9                   Can I be more clear on that?

10                  Q. And do you hold that view because you  
11   feel that when you plant that you are going to end  
12   up -- or not be able to comply with the prescriptions  
13   that you suggest should be imposed, particularly 1.1(a)  
14   that says you should return the stands to the original  
15   species and densities; is that the basis for that  
16   opinion?

17                  A. Yes, because you optimize in one  
18   case; you try to maximize in your view, and that is the  
19   basic different, Madam. You see the difference between  
20   optimization and maximization of production of the  
21   forest land.

22                  Q. So in a nutshell then, in  
23   multi-purpose forestry, you've said that you're not  
24   saying that strip cutting is a panacea, but what you  
25   are saying is that we should try it first so that if it

1 works it will be the panacea and, if it fails, we'll  
2 try something else?

3 A. Of course, I said it a dozen times.

4 MADAM CHAIR: Mr. Marek, I'm going to ask  
5 you a question. I don't want us to get really off  
6 track, but it's just a question I have about your  
7 philosophy of multi-purpose forest.

8 THE WITNESS: Right.

9 MADAM CHAIR: And in the situation of a  
10 multi-purpose forest where a tourist operator said: I  
11 want this part of the forest managed so that we plant  
12 densely with white pine because white pine is  
13 attractive for American tourists and this is what I  
14 want done with this multi-purpose forest. It's a  
15 ludicrous kind of situation --

16 THE WITNESS: Maybe not.

17 MADAM CHAIR: Or maybe not, but those  
18 sorts of objectives and multi-purpose forestry

19 THE WITNESS: Exactly.

20 MADAM CHAIR: --also work against  
21 restoring the forest to what it was. There may be  
22 reasons in multi-purpose forests that specific  
23 forestation would be done differently.

24 THE WITNESS: That's a special kind of  
25 forestry, Madam, special branch of forestry, but it's



1 possible, it's being done. It's something which we  
2 also have to be acquainted with. But, Madam, once you  
3 started with it, I appreciate it, and I like to say a  
4 few words on danger of these things.

5 Immediately you talk about paying. If  
6 some -- you know, economic tenure and tenure of what I  
7 wish forests to be.

8 If tourist outfitter desires certain  
9 forest for his own backyard, my answer to this would  
10 be: Okay, buddy, you get your licence on that area  
11 approved by the government, approved by the -- it's got  
12 to go through the process - and if you got public  
13 approval, if you're going to get public approval and  
14 government, everybody understand what game we are in,  
15 what kind of forestry, you take and rent a licence for  
16 that part of the land and you manage it according to  
17 the plan.

18 MADAM CHAIR: You're assuming that it  
19 will always be economic tenure that's the issue. It  
20 might be a canoe route where canoeists will say: Well,  
21 I want you to plant overhanging willows because it's  
22 much better than that junky - I don't know - jack pine.

23 THE WITNESS: Okay. Go through the  
24 process, go through the planing process and if in our  
25 wisdom decision will be yes, we going to plant willow

1       there, I would say this: You use it, you pay for it.

2                   MR. MARTEL: I mean, that is stretching  
3       it; isn't it, though?

4                   THE WITNESS: No.

5                   MR. MARTEL: I mean, tell me a small  
6       group of 10 people who like canoe routes - let's talk  
7       about Killarney Park, I know a little bit about  
8       Killarney Park - you have a number of people who use  
9       canoe routes, who come in there, there's no motorized  
10      vehicles, the whole business, and you're simply saying  
11      to them, this group who have lobbied successfully to  
12      get this designated as a park are now going to be  
13      responsible for going in.

14                   I mean, they're not full time, they're  
15      doing it as recreationists, they do it as  
16      environmentalists, they do it -- there's a whole number  
17      of reasons. How in God's name could they ever be there  
18      expected to go in and do the type of thing you're  
19      suggesting?

20                   THE WITNESS: Mr. Martel, why should  
21      company on a licensed area pay a tenure for that land  
22      when they are not using it? Okay. You talk about area  
23      around the tourist outfitter--

24                   MR. MARTEL: But they don't pay tenure  
25      unless they're utilizing it.

1 THE WITNESS: No, they don't utilizing  
2 something, they still pay the management charges for  
3 that area. Why? If somebody else uses it and it's  
4 taken out of the "timber production", that's what  
5 Industry say because they have a God-given right to  
6 every tree under licence, as you know, it's a God-given  
7 right for last hundred years.

8 Okay. If somebody else prove that it's  
9 useful to them, they can use it from cottages right  
10 down to reserve, I said: Okay, you take that area  
11 under your management and you pay the tenure, you pay  
12 the charge.

13 MR. MARTEL: But the public does -- I  
14 mean, the public pays for the tenure out there by the  
15 very fact that they contribute every day to the tax  
16 revenues of the province.

17 MR. FREIDIN: They pay for management  
18 foresters.

19 MR. MARTEL: They subsidize all that.

20 THE WITNESS: Maybe they shouldn't  
21 subsidize.

22 MR. FREIDIN: Q. Mr. Marek, the public  
23 pays for management foresters; is that right?

24 A. Yes.

25 MR. FREIDIN: I'm sorry, Mr. Martel.

1 MR. MARTEL: The point is made.

2 THE WITNESS: The public pay for civil  
3 servant to do certain things. They are getting wages  
4 as civil servants, we have to manage it, the estate, as  
5 we know, but when you have special requirements like  
6 tourist outfitter or the company who claim that area  
7 for their own profit, for their own profit, then you  
8 have a complete...

9 Madam, in Europe this is happening  
10 frequently. That in Finland you go and they have a  
11 licence for certain area to manage, they do it very  
12 well as a private -- they get together, 10 outfitters  
13 get together or 10 entrepreneurs get together and  
14 manage the area. They have advisors from the  
15 government, they have to prepare management plan, and  
16 it's done very satisfactorily.

17 MADAM CHAIR: Thank you, Mr. Marek.

18 Mr. Freidin?

19 MR. FREIDIN: Q. We were talking about  
20 building up trust in the public of the foresters. Let  
21 us assume, Mr. Marek, that the public on a management  
22 unit and the forester agree--

23 A. To that...

24 Q. --that the objective, they have a  
25 common objective and it is to have a stand equal to the



1 species and density of the stands that are harvested,  
2 okay, they have that common objective.

3 The forester believes based on his  
4 professional expertise, experience, whatever, says: I  
5 think the way we can do that is "x". The public say:  
6 No, no, no, we would prefer...

7 A. That way.

8 Q. That you do it some other way.

9 A. Okay.

10 Q. And the forester says: No, no. If  
11 you do it that way, you won't achieve the objective.  
12 And the public says: But that's the objective and I  
13 want you to try it this other way.

14 Now, in that hypothetical situation, do  
15 you not agree that the best way to build up trust in  
16 the long run - because we're not going to do it  
17 overnight - is for foresters to make decisions based on  
18 their best judgment and obtain good results and  
19 convince the public through the results that they can  
20 indeed make decisions which will, in fact, achieve  
21 those common objectives?

22 A. Mr. Freidin, for years foresters have  
23 tried to do it. For years, for last 50 years foresters  
24 are telling the public this is the best way we can do  
25 and, look, they are not being trusted with it.

1                   Are we all blind not to see the causes of  
2                   this problem. That you telling me that the forester  
3                   for the last 50 years --

4                   MADAM CHAIR: Just slow down, Mr. Marek.

5                   THE WITNESS: Slower?

6                   MADAM CHAIR: Slower, please, yes.

7                   THE WITNESS: That for last 50 or even  
8                   more years are prescribing thing the public finally  
9                   say: No more of this. Aren't you aware of this?

10                  MR. MARTEL: Mr. Marek, can you stop  
11                  right there.

12                  THE WITNESS: Yes.

13                  MR. MARTEL: You tell me, in the last 50  
14                  years, where the public had any input at all in the  
15                  last 50 years?

16                  THE WITNESS: Exactly.

17                  MR. MARTEL: No, but there's been no  
18                  public input. You say the foresters have been trying.

19                  Now, we've got FMAs in the last 10 years  
20                  but, in fact, we haven't really developed a -- we're  
21                  starting, we're starting to move in that direction, but  
22                  the cynicism, was it not already there, because for --  
23                  let's take, split your 50 years into 40 and 10, the  
24                  first 40 years that you're talking about the public  
25                  didn't have a tinker's dam--

1 THE WITNESS: Exactly.

2 MR. MARTEL: --to say about what was  
3 going on.

4 The last 10 years it is slowly  
5 developing, would you not agree, but even then, even  
6 then, how much real input has the public had in the  
7 last 10 years?

8 MS. CRONK: Well, Mr. Martel, before the  
9 witness answers --

10 MR. MARTEL: He worked for the Ministry  
11 so he knows, he was there in the first five years of  
12 the FMA program.

13 THE WITNESS: Yes.

14 MR. MARTEL: So I can ask him what is his  
15 experience on the public's involvement in the area he  
16 managed.

17 THE WITNESS: Yes.

18 MR. MARTEL: Real public involvement for  
19 the five years he was there.

20 MS. CRONK: I only rose, sir --

21 MR. MARTEL: I'm simply trying to get a  
22 distinction on what he means as between talking to the  
23 public and public involvement, and I don't know of  
24 where the public involvement really has been up until  
25 very recently.

1 MS. CRONK: I rose, sir, not to object in  
2 any way to the answer being provided by the witness,  
3 but simply to, for I hope your assistance, to recall to  
4 you that you have received considerable evidence about  
5 the steps taken to date and the steps that might be  
6 taken.

7 MR. MARTEL: Yes.

8 MS. CRONK: That is a contentious issue,  
9 and I was a little concerned that we might again have  
10 an opinion at large from the witness that's going to  
11 cause us all trouble at the end of the day.

12 MR. MARTEL: Go ahead.

13 MADAM CHAIR: Mr. Marek, I think you're  
14 being asked very big questions. Maybe we can take them  
15 apart in pieces and allow you to respond to what Mr.  
16 Martel is asking you. We know what your opinions are  
17 generally about public participation.

18 THE WITNESS: That's right.

19 MADAM CHAIR: Mr. Martel is asking you  
20 specifically in the last five years, you were at the  
21 MNR, did you see a change in public participation and  
22 do you have a view about how effective it was or  
23 whether it can be made more effective?

24 THE WITNESS: Madam Chair, my experience  
25 with public participation was in -- not in last five



1 years because I didn't --

2 MR. MARTEL: 80 to 85.

3 THE WITNESS: But I'm talking from

4 80-85--

5 MADAM CHAIR: That's what I'm talking of

6 the last few years--

7 THE WITNESS: Even before that.

8 MADAM CHAIR: --at MNR.

9 THE WITNESS: Because this has been hotly  
10 discussed during the FMA constructions, they had a base  
11 in their discussion.

12 But may I state here very clearly that we  
13 were told on many, many occasions since 1972 that we as  
14 a public servant are to obey the orders; in other  
15 words, when our political masters, whoever was the  
16 Minister of Natural Resources, from Bernier right on to  
17 last one, from Frank Miller right on to last one - who  
18 was it? - but 1985 one direction we had, was when you  
19 deal with public don't, under any condition, mention  
20 your forestry or public opinion -- pardon me, personal  
21 opinion. You are here to listen to the instruction  
22 from the above, you respond. If you cannot respond  
23 say: I don't know.

24 Now, this is a simplification of the  
25 process, Madam. But that brought MNR in such a hot

1 trouble that we at the public meeting on many occasions  
2 standing there and somebody came and says: What do you  
3 think, George Marek, you were working as a timber  
4 forester or management forester or supervisor for last  
5 20 years, what do you really think about it? I had to  
6 say: I'm sorry, I don't know.

7 Now, that is changing because Ministry  
8 knows now, or the government knows that this does not  
9 work, because they know now concrete problem with this  
10 I don't know syndrome or, I have to wait until somebody  
11 else come or, my supervisor told me I cannot talk  
12 about it. And so that was a problem which we  
13 inherited.

14 Now, after '85, as a consultant and as a  
15 people who deal with problem, it's interesting to note  
16 that this recovery of MNR into the new period of  
17 enlightenment, I will say, yes, we need a public  
18 because otherwise you know what they can do to us and  
19 so on;

20 Yes, there is a effort being made to  
21 communicate with public, but what bothers me is that  
22 that kind of communication is that still you have that  
23 syndrome behind where everybody says: What can I say,  
24 there's the Secrecy Act, there's -- can I say that,  
25 because I cannot -- I may get fired or demoted or

1       whatever, promoted.

2                   This is so deeply entrenched, and that  
3       start this re-organization 1972, where we were told  
4       under certain terms, you obey. You are here to listen  
5       to us, never mind your professional and scientific and  
6       whatever Mr. Freidin is talking about, your grand  
7       scientific know-how; never mind, you are here to listen  
8       what we... That is the problem.

9                   MADAM CHAIR: Thank you, Mr. Marek.

10                  MR. FREIDIN: Q. So, in a nutshell, sir,  
11       you think there is some deeply entrenched fear of  
12       foresters to, in fact, describe what they feel is  
13       appropriate for the betterment of the forest?

14                  A. Not all, but many of them in public  
15       service.

16                  Q. Right. Now, that's a separate issue  
17       from the issue of how much discretion they should have  
18       to make those decisions, assuming they didn't have the  
19       fear, the ones that don't have the fear surely--

20                  A. Be fired.

21                  Q. --should have the -- they all get  
22       fired? No, you're saying -- I'm being very serious  
23       now. Are you saying that --

24                  A. Sir, I went through that.

25                  Q. We talked about a new process, you

1 have no experience with the process other than as a  
2 consultant as you indicated, and you've already spoken  
3 about the extent of your experience with the new  
4 process that's been in place since 1985.

5 A. As a consultant, yes.

6 Q. Right.

7 A. Who deals with government very, very  
8 frequently, sir.

9 Q. Do you not agree -- do you agree with  
10 me, Mr. Marek, that if in fact there has been cynicism  
11 built up over the last 40 years --

12 MADAM CHAIR: Excuse me, Mr. Freidin.

13 ---Discussion off the record

14 MADAM CHAIR: Why don't we finish with  
15 your question, Mr. Friedin, and then we'll take our  
16 morning break.

17 MR. FREIDIN: Okay.

18 Q. If there has been cynicism built up  
19 as discussed over the first -- particularly the first  
20 40 years or the last 50 years.

21 A. Yes.

22 Q. And the process is changing.

23 A. Yes.

24 Q. And we have a new timber management  
25 planning process which has been in place since 1985--



1 A. Yes.

2 Q. --where the Ministry is, according to  
3 you, making an effort to consult with the public--

4 A. Yes.

5 Q. --to get input from the public, would  
6 you agree with me that that cynicism is not going to  
7 disappear overnight?

8 A. Agree.

9 Q. It's something that's going to have  
10 to be worked at over time to regain any trust or to  
11 alleviate or reduce that cynicism?

12 A. Yes.

13 Q. And do you not agree with the  
14 proposition, sir, that a good way of doing that is  
15 for -- assuming we have a certain objective for an  
16 area, that the objective is achieved through  
17 silviculture, good silviculture?

18 A. Very good.

19 Q. Who cares, it's achieved through  
20 silviculture?

21 A. Yes, yes.

22 Q. And during this process of change,  
23 this period where this cynicism will be reduced, if  
24 trust will be built up by achieving the common  
25 objective, would you agree with me that where

1 achievement or non-achievement of that objective is  
2 dependent on whether the silvicultural prescription is  
3 the appropriate thing from a silvicultural point of  
4 view, from a biological point of view, that when there  
5 is no consensus, when there happens to be conflict  
6 during the period of change, that the buck has got to  
7 stop, and the responsibility and the authority to make  
8 that ultimate decision has got to lie with the  
9 professional, and that is the management unit forester  
10 who is being paid by the public to be a professional  
11 and make those very kinds of decisions?

12 A. Mr. Freidin, I'm a forester and I  
13 would love, I would love that this can be accomplished,  
14 this goal what you talking about, the situation where  
15 we point out that the foresters or forestry profession  
16 or government agents and government people and for a  
17 private company people, that we have more trust in the  
18 people.

19 But may I point out to you, sir - and I  
20 repeat it and I have to repeat it again - it's up to  
21 government, it's up to Ontario Government to put the  
22 ground rules to this process.

23 Silviculture will be part of it, the  
24 prescription will be part of it, the communication will  
25 be part of it, but finally, may I suggest to you again,

1 that our government have to take the concrete  
2 responsibility of managing our own estate, guide the  
3 professional people you talk about, in other words  
4 including myself, into performing something which I  
5 feel is a government responsibility.

6 If the goals and objective of Government  
7 of Ontario will be clearly clarified and classified and  
8 said, here Crown Timber Act says this, the Crown Timber  
9 Act is the law, you cannot have a professional opinion,  
10 sir, unless you are backed up by law in forestry.

11 The forestry got to dictate, if you're  
12 going to have a merchantable stick of 4 inches diameter  
13 or 10 inches diameter, you cannot practice silviculture  
14 without law backing you up, yet you indeed must do this  
15 or should do this.

16 In other words, certain standards,  
17 certain standards, and they have to come from the  
18 government, in order to protect the forester when he  
19 implements his program.

20 Sir, you can be an Albert Einstein, you  
21 can be Albert Einstein and start practising forestry,  
22 there always will be one problem, that Albert Einstein  
23 going to come and say: Government, what is your goal  
24 or objective? What I may do, what I may not do. What  
25 I should do, and so on.

1                   This is gotten to be written in the law,  
2                   and one of the problem we have for many years that we  
3                   haven't got a law to back up that forester or that  
4                   manager that he can say: Yes, this is - I'm following  
5                   the regulation in the Crown Timber Act or in the  
6                   general rules of the government. We haven't got that.

7                   Q. The law that you would want to see is  
8                   a law which would allow the professional forester--

9                   A. Practising profession --

10                  Q. --that freedom to, in fact, or  
11                  exercise his discretion to make the decision that he or  
12                  she feels is the best for the forest and not worry  
13                  about someone coming down on them for it; is that it?

14                  A. Not at all. We have a basic  
15                  misunderstanding what forestry profession is all  
16                  about -- any profession.

17                  You have, sir, in any profession law  
18                  saying take nursing profession, take medical  
19                  profession, take engineers law, take engineers --

20                  Q. Yes.

21                  A. Every say or claim certain allegiance  
22                  to something. Look at the foresters, their allegiance  
23                  to whom, to public, to employer? But nobody mention  
24                  the forest land.

25                  Why don't we have a Code of Ethics .



1 perhaps written in Crown Timber Act where the forester  
2 or professional man is bound to plea allegienace to the  
3 forest land instead of Abitibi or George Marek to his  
4 consulting firm, and I don't know. Why is it? Would  
5 you explain it to me?

6 Madam Chair, this is a very important  
7 subject because I think in order to practice good  
8 forestry we need back-up, and that back-up is in the  
9 hands of the government.

10 MR. FREIDIN: I think that might be a  
11 good place to have a break now.

12 MADAM CHAIR: Thank you, Mr. Freidin.  
13 We'll take a 20-minute break now.

14 ---Recess at 10:35 a.m.

15 ---On resuming at 10:55 a.m.

16 MADAM CHAIR: Please be seated.

17 MR. FREIDIN: A housekeeping matter,  
18 Madam Chair. I just was speaking to Mr. Greenspoon,  
19 I'm not too sure exactly what it was I said yesterday  
20 that I would speak to him about, but hopefully the  
21 information I have will hit the mark.

22 He indicated that his client, I guess is  
23 Northwatch.

24 MS. SWENARCHUK: No.

25 MR. FREIDIN: Northcare?

1 MS. SWENARCHUK: Yes, Northwatch, sorry.

2 MR. FREIDIN: Northwatch, yes.

3 Northwatch would want to present their evidence in  
4 North Bay or New Liskeard but they have not made a  
5 decision yet as to which location.

6 They have retained a consultant, but  
7 they're really at the very initial stages of putting  
8 together a case, but he believes a week in direct  
9 evidence is the best estimate he can give at the  
10 moment.

11 In terms of lead time, he indicated that  
12 his consultants have been told sort of start but don't  
13 really get going until we know when we are going to be  
14 presenting our case.

15 He indicated to me that he thought he  
16 would need three to six months notice or lead time to  
17 sort of get his consultants up to speed and get  
18 everything prepared, and he indicated that he was led  
19 to believe, based on conversations with parties he  
20 didn't name, that their case would not be presented  
21 until 1992.

22 So I guess it depends on what the  
23 satellite hearing schedule would be, and I'm not aware  
24 of what that is, but that's his understanding at the  
25 moment.

1                   So I guess Mr. Pascoe can take the  
2 transcript and follow up, if required.

3                   MADAM CHAIR: Thank you, Mr. Freidin.  
4 And so Mr. Greenspoon's understanding that other  
5 parties would be presenting evidence as well at North  
6 Bay and New Liskeard?

7                   MR. FREIDIN: Yes, yes. I told him that  
8 in conjunction with one of -- you know, with the  
9 satellite hearing. So I didn't say that expressly, but  
10 I'm assuming that he understood that.

11                  MADAM CHAIR: All right. Thank you very  
12 much.

13                  MR. FREIDIN: Q. Okay. Could we go back  
14 to the Forests for Tomorrow terms and conditions,  
15 please.

16                  A. Yes.

17                  Q. And the second line, first page, you  
18 described ecological sustainability yesterday, you  
19 indicated that that was that concept of returning the  
20 stand or the cut-over to the species that would have  
21 been there by nature had natural disturbance been  
22 allowed to proceed and natural succession occur?

23                  A. Yes.

24                  Q. You've spoken about intensive  
25 forestry areas, areas where there would be a single

1 purpose of timber production?

2 A. Maximization of timber production.

3 Q. Yes. Am I correct that in those  
4 areas that you would be attempting to develop stands --  
5 or pardon me, you would have to be eradicating species  
6 and one of the purposes would be to have new stands  
7 which were as pure as possible in terms of the species  
8 you were trying to regenerate?

9 A. Maximize the yields, maximize the  
10 timber production and I think it should be very clear,  
11 the objective. Maximization of timber production.

12 Q. Okay. And, therefore, this concept  
13 then of ecological sustainability would not apply in  
14 those areas?

15 A. Ecological sustain -- as compared to  
16 the previous stands, or the previous ecosystem?

17 Q. Yes.

18 A. Yes.

19 Q. It would not -- it would not be one  
20 of the objectives?

21 A. The objective is strictly timber  
22 production, timber fibre production.

23 Q. Not ecological sustainability as  
24 you've defined it. Not ecological sustainability as  
25 you've defined it?



1                   A. Yes, yes. I would like to adverse  
2           that the ecological sustainability of the production of  
3           the sites have to be considered in order to maximize  
4           the timber production also.

5                   Q. Right. We're talking about the  
6           ability of the site to produce what you're trying to  
7           achieve?

8                   A. So you have to consider biological  
9           productivity otherwise it doesn't make sense.

10                  Q. I understand. Thank you very much.  
11           Now, looking at the terms and conditions again on the  
12           first page, if I can direct your attention to 1.1(c).

13                  A. Yes.

14                  Q. And you note it indicates that:  
15                  "Silvicultural prescriptions shall  
16                  minimize or prevent site damage by the  
17                  proper use of appropriate harvesting and  
18                  site preparation equipment."

19                  A. Correct.

20                  Q. And in (d) it indicates that:  
21                  "Silvicultural prescriptions shall  
22                  maintain or enhance the productivity of  
23                  the site."

24                  A. Yes.

25                  Q. Now, would you go up to the very

1 first paragraph on the first page and would you look at  
2 the second sentence. It says at the present time:

3 "The MNR shall ensure that no site damage  
4 or productivity loss results from these  
5 particular items listed as 1 to 4."

6 A. Yes.

7 Q. Would you agree looking at (c) and  
8 (d) which we've reviewed which say minimize or prevent  
9 or maintain or enhance.

10 A. That's right.

11 Q. That if we changed the second  
12 sentence in the first paragraph to read:

13 "MNR shall through its prescription  
14 setting and their implementation minimize  
15 or prevent site damage or the reduction  
16 of site productivity due to these four  
17 things...", that that would be consistent  
18 with what you are attempting to achieve through (c) and  
19 (d)?

20 A. Well, Mr. Freidin, I just feel that  
21 you try to put the words in my mouth here or words in  
22 this statement which already we agreed upon and to try  
23 to change the context. Would you repeat it again for  
24 my benefit, just so I have some grip where you are  
25 leading.

1 Q. Let me come at it a little bit more  
2 directly.

3 A. Yes.

4 Q. When you read (c) and (d) it says  
5 when you set these prescriptions, the standard -- what  
6 you have to do, the purpose is to minimize or prevent  
7 the site damage.

8 A. Site damage. Okay, that's clear.

9 Q. If we go up to the second sentence in  
10 the first paragraph, it says:

11 "MNR shall ensure that no site damage  
12 occurs."

13 Now, there's a difference between saying  
14 you must ensure that no site damage occurs and an  
15 obligation that says you shall make prescriptions which  
16 will minimize or prevent. When it says minimize --

17 A. By preventing you minimize.

18 Q. Well, all right. When I read those  
19 words, minimize or prevent.

20 A. Yes.

21 Q. It accepts the premise that you can't  
22 in every circumstance--

23 A. Oh.

24 Q. --avoid every effect. So it says, we  
25 want you to minimize it and, if you can, prevent it;

1 and that is different. If you say to somebody: Try to  
2 prevent it and, if you can't, minimize it; that's  
3 different than saying you must ensure that no damage  
4 occurs.

5 And all I'm trying to do is make sure  
6 that we don't have inconsistent wording in the  
7 suggested terms and conditions?

8 A. All I can say, sir, that these are  
9 logical, very logical terms used frequently in forestry  
10 in achieving, say, the sustainability of production,  
11 the sustainability or perpetuation of the ecosystem,  
12 and the term minimize or--

13 Q. Prevent.

14 A. --prevent is a beginning of these  
15 goal.

16 Q. Yes, I understand that.

17 A. Well...

18 Q. But in forestry you can't guarantee  
19 that there is not going to be some damage. You can't  
20 guarantee that; is that true?

21 A. Yes. That's a relative term, a  
22 relative concept.

23 Q. Yes. So would you agree then that  
24 the terms and conditions, if they are to reflect  
25 reality, should not impose an absolute obligation that



1 no site damage should occur, it should actually say,  
2 again, make sure that your silvicultural prescriptions  
3 are designed such that you are endeavoring to prevent  
4 or minimize; where it is just impractical, I mean, it's  
5 impossible to ensure, guarantee no damage?

6 A. Sir, I know exactly what you are  
7 aiming at and you are talking about degrees, exactly,  
8 degree; how much is too much, how little is too...

9 May I point out to you, sir, that in  
10 forestry this term to minimize or mitigate are being  
11 used presently so freely that it bothers me and it  
12 bothers many other people who see the damages actually  
13 done on the site itself in the practice.

14 And, Madam Chair, you have seen my  
15 slides. Again I have to go back, where what is bad,  
16 what is minimum or what is relatively minimum, these  
17 terms do bother me and I think that to appropriate in  
18 legal terms how much is too much, how little is too  
19 little.

20 So it's again in the hand of the forester  
21 manipulators who, by sound judgment and by  
22 prescription, back up by laws will state: Okay, this is  
23 too much and this will be penalized, this will be  
24 penalized.

25 And I think what you are aiming at,

1 counsel, is the fact that indeed we are dealing with  
2 serious infractions or perturbations caused by our  
3 activity to the forest lands.

4 And when I was preparing this statement I  
5 was aware of, again, the degrees we are talking about.  
6 And perhaps here is a very important role of timber  
7 manager or forest manager for that area who will  
8 anticipate, who will very carefully evaluate such  
9 possible damages and present them into the timber  
10 management plan, put them in FEC as a guide book and I  
11 am missing that guidelines in the FEC and it's pointed  
12 out in my testimony.

13 Q. Right, we'll deal with that later.

14 A. Right. So right here for me, you  
15 know, in three or four pages deal with this issue, is  
16 something which I hesitate to do because there will  
17 obviously be follow-up to this which may be more  
18 precise in dealing with some of these issues.

19 MR. MARTEL: Could you put the one word  
20 in, the MNR shall endeavour to ensure. That then --  
21 because you can't guarantee that there will be no site  
22 damage, but it doesn't water down what you're  
23 attempting to achieve through good practices that you  
24 want to see in (c) and (d), and it gets around Mr.  
25 Freidin's concern I think, that you can't -- you can

1 never guarantee, there's no absolute.

2 THE WITNESS: No.

3 MR. MARTEL: I can understand what you  
4 are driving at, and I just wonder if you include that  
5 in, the MNR shall endeavour to ensure, that means that  
6 you are working towards a goal, always it's out there--

7 THE WITNESS: That's right. right.

8 MR. MARTEL: --and you want your people  
9 to work towards that goal, and it doesn't water it  
10 down, I don't think, it makes it really encumbent on  
11 people to do that. On other hand, it doesn't say, well  
12 if you can't guarantee it, there's no forestry.

13 THE WITNESS: That's right.

14 MR. MARTEL: And so I just wonder if that  
15 is some sort of acceptable wording to add those two  
16 words, 'endeavor to'. It makes more sense.

17 THE WITNESS: Mr. Martel, I agree with  
18 you and perhaps attempt will be made to rectify the  
19 situation and would include. I have to discuss it with  
20 the Society in Beardmore because they approve this, and  
21 I have to also discuss it later with the counsel.

22 MR. FREIDIN: Q. Your personal view is  
23 that that's an okay change, but you would want to  
24 discuss it with your client?

25 A. I personally agree, yes. See, I'm

1 not an English language expert, sir, and some of these  
2 nuances which you fellow have advantage, I appreciate  
3 because I'm in the process of learning myself.

4 Q. Okay. Thank you very much, Mr.  
5 Marek. Let's go down to 1.1(a) again, this is the one  
6 about the species and density.

7 A. Yes.

8 Q. Now, when you were being  
9 cross-examined by Ms. Seaborn, the Ministry of the  
10 Environment--

11 A. Yes.

12 Q. --you made the comment in relation to  
13 another -- well, you made the comment, if we harvest  
14 black spruce stand we should have black spruce stand,  
15 unless more important factors occur which lead to our  
16 inability to achieve that. I think we are talking  
17 about natural disturbance or something?

18 A. Oh yeah.

19 Q. But then you said, when we harvest a  
20 working group poplar, jack pine, black spruce--

21 A. Yeah.

22 Q. --we should keep that working group  
23 in place, we cannot abandon our forest land.

24 A. Yes, yes.

25 Q. Now --



1 A. That's my own words, sir.

2 Q. Yes.

3 A. And perhaps there is a farther  
4 improvement in my English there. I feel strongly that  
5 once we have precedence of natural stands, we should  
6 try to perpetuate them, yes. That's what I meaning  
7 there.

8 Q. And if 1.1(a) indicated that what we  
9 should be doing was to endeavour to achieve in the  
10 lowest cost to the public to regenerate stands of the  
11 same working group as the stand that was harvested,  
12 would that be sufficient or would that change the  
13 intent of 1.1(a)?

14 A. Sir, I think the intent is very  
15 clear. If your commitment is to perpetuate something,  
16 you just perpetuate and do best you can in order to  
17 perpetuate the system, and when you -- I see your  
18 intent, sir, you are telling me that we can improve  
19 upon, and I'm asking you back, in what sense, in which  
20 way because, you know...

21 Q. I think I have your answer and I'm am  
22 going to move on, I don't think it's a matter that we  
23 should spend a lot of time on. Okay?

24 A. Well, for sake of clarification I am  
25 curious what you have.

1 Q. I just wanted to know whether if we  
2 changed the phrase species and density of the stands  
3 that are harvested, to working group of the stands that  
4 are harvested, whether that would change the meaning?

5 A. Change the meaning which way?

6 Q. The meaning or the intent of 1.1(a)?

7 A. I don't think it should.

8 Q. Thank you. Now, if I can move on  
9 then with these terms and conditions, and let me stay  
10 on the first page. 1.1(ii), you want to endeavor to  
11 ensure that no site damage or productivity loss results  
12 from improper or inappropriate timing of harvesting.

13 A. Yes.

14 Q. We are talking about the season of  
15 harvest, is that what we're talking about?

16 A. That is correct, that is correct,  
17 season, timing.

18 Q. And does the reference to timing  
19 refer to anything else, or was it meant to really  
20 address this season of harvest issue?

21 A. It also means, it also means that the  
22 timing of harvesting affects considerably the timing of  
23 silviculture.

24 Q. Yes.

25 A. Renewal, and perhaps again -- this

1 perhaps should be explained in detail and perhaps we  
2 should elaborate more later on when we are going to  
3 analyse these prescriptions and there may be many of  
4 them.

5 I would like to point out to you that the  
6 goals of integration of harvesting and silviculture is  
7 based on timing in many instances, and I just put it  
8 down as a paragraph that improper and inappropriate  
9 timing of harvesting is the goal.

10 Q. I understand the point you're making.

11 A. Yes.

12 Q. Thank you very much. Could we go  
13 down --

14 MS. SWENARCHUK: Obviously if MNR is  
15 prepared to sit down and negotiate our prescriptions,  
16 we would be pleased to do that.

17 MR. FREIDIN: We'll talk about that  
18 later, Madam.

19 MS. SWENARCHUK: Our differences seem  
20 smaller than I expected.

21 MR. FREIDIN: Q. 1.1(d) - I find this  
22 very efficient - 1.1(d):

23 "Maintain or enhance the productivity of  
24 the site."

25 In this particular case, does

1 productivity refer to more than the nutrient status of  
2 the site?

3 A. The productivity of site, Mr.  
4 Freidin, is very complex and when you try to tell me  
5 that what productivity means, I could go back of  
6 different stages of productivity, different fluxes,  
7 different ecosystem stages and so on. In order to get  
8 what we had before, and that is the purpose of this--

9 Q. Yes.

10 A. --we certainly should maintain the  
11 productivity. Now...

12 Q. I don't want to interrupt you, but I  
13 want to sort of see if I can help it.

14 A. No, no, go ahead.

15 Q. Are you saying that the measure of  
16 productivity then is whether in fact you get back what  
17 in fact you had there before when you're talking about  
18 multi-purpose forest areas?

19 A. Yes, very much so.

20 Q. That's the measure?

21 A. That's the measure, what nature gave  
22 us through thousands of years and nature through their  
23 own means produce the resources, that should be our  
24 goal.

25 Q. All right.



1                   A. That's what I call sustainable  
2 forestry or something which has something to do with  
3 it.

4                   Q. All right. Thank you, that's  
5 helpful. Can we go to subparagraph (e)?

6                   A. Yes.

7                   Q. Indicating that:

8                   "Prescriptions shall maintain or enhance  
9 habitat for all native species of  
10 wildlife, including plants--"

11                  A. Yes.

12                  Q. "--so that natural balances are  
13 achieved in the workings of the forest."

14                  Could you explain for me what is meant by  
15 natural balances in this context and how one would  
16 measure it?

17                  A. The natural balances are measured by  
18 the ability of site to produce or sustain the  
19 biological, physical product -- and physical products.  
20 The productivity can be measured by input and output of  
21 energy, it can be measured by productivity or  
22 production of carbon. There are many measures of  
23 productivities.

24                  In this case, at different stages of the  
25 ecosystem dynamics, we cannot as yet exactly measure,

1 exactly measure the input and outputs because we  
2 haven't got the means to measure the inputs. The  
3 outputs are measurable due to the production of carbon  
4 and material which gets out of the ecosystem.

5 Q. Yes.

6 A. But we haven't got a very good idea  
7 how the input works, and there are different inputs and  
8 outputs throughout the dynamics of the total ecosystem.  
9 We talk about steady state, we talk about degradation  
10 state, we talk about the fluxes, the exchanges between  
11 the ecosystems.

12 Q. Mr. Marek?

13 A. Yes.

14 Q. The topic that you're talking about  
15 is the nutrient cycling which we've been through and  
16 the thing that I would like to focus on, if I might, is  
17 the reference to native species of wildlife, leaving  
18 aside the reference to plants which we can get to.

19 A. Oh, you didn't say that, sir.

20 Q. Native species of wildlife:

21 "Maintain or enhance habitat for all  
22 native species of wildlife--"

23 A. Okay.

24 Q. "--so that natural balances are  
25 achieved."

1                   What is meant by natural balances in  
2   relation to native species of wildlife and how does one  
3   measure it?

4                   MS. SWENARCHUK: Could I suggest that the  
5   panel that MNR -- excuse me, FFT will produce on  
6   wildlife and biodiversity is the area in which that  
7   subject will be discussed in detail, and it might save  
8   time of the Board if that question was directed more to  
9   that panel.

10                  MR. FREIDIN: All right. I have no  
11   problem with that.

12                  Q. Then just one question, remaining  
13   question, Mr. Marek. Did you have an understanding of  
14   what natural balances in relation to wildlife meant  
15   when you endorsed this particular paragraph?

16                  A. Yes, I did.

17                  Q. All right. And could you tell me  
18   what your understanding was then, so that I know what  
19   it was that you were endorsing?

20                  A. I'm endorsing multi-purpose forestry,  
21   that was one of the reason because we talk frequently  
22   of multi-purpose forestry; and, secondly, I endorse it  
23   through my experience with species like moose which is  
24   a part of the boreal forest ecosystem and it's a very  
25   important part of it, by having some input into its

1 management or into its presence in the ecosystem.

2 Q. Okay, fine. I'll take Ms.

3 Swenarchuk's offer -- suggestion and I'll take this up  
4 with another panel. One last question hopefully in  
5 relation to (h).

6 A. Yes.

7 Q. Where you indicate that:

8 "Natural regeneration should be used  
9 on stands capable of naturally  
10 regenerating to primary coniferous  
11 species."

12 Can you just clarify for me, sir, in  
13 accordance with -- do these terms and conditions, is it  
14 the intent that these terms and conditions will permit  
15 or will allow the tending of naturally regenerated  
16 stands?

17 A. In multi-purpose forest.

18 Q. Yes, sir.

19 A. In multi-purpose forest, Mr. Freidin,  
20 the ideal situation be that we can or we will  
21 perpetuate the specie in the ecosystem or species or  
22 association of species in that biome in such a way that  
23 we don't have to tend.

24 Now, that is ideally speaking, ideally  
25 speaking. In other words, that we can perpetuate



1 forest's natural regeneration of black spruce working  
2 group back into natural regeneration of the same  
3 species without any tending.

4 Now, if tending is required, if tending  
5 would be required, and this is again very important  
6 part of the timber planning process of forest land  
7 management, what decision will be made to deal with  
8 this issue?

9 I like to tell you, sir, that presently  
10 we have a problem of tending across the board in the  
11 so-called extensive management which is here, okay,  
12 it's extensive management.

13 Q. This is your large areas?

14 A. Large areas which are clearcut or  
15 trees were removed, some species were removed, some  
16 species were left standing. So we have a really  
17 problem: What you going to do with the competition if  
18 you as a manager choose protect the "crop trees".  
19 And I think there are as many opinions what to do and  
20 how to do this as probably as many problems.

21 I think that this FFT draft terms and  
22 conditions deals with that issue by saying that if the  
23 goal of management is a forest very similar to the one  
24 which were there before, the manipulating of the  
25 tending and means to achieve it will be, again,

1 depending on professional knowledge and professional  
2 knowledge of the country or of the stands, goals and  
3 objectives to perpetuate these stands, and it is hoped  
4 that the decision will be as scientific as possible.

5 Q. In the multi-purpose forest where the  
6 ideal does not occur, is the option of tending  
7 permitted?

8 A. It could be permitted under certain  
9 circumstances.

10 Q. And those certain circumstances not  
11 being specified herein, can I assume that that decision  
12 would have to be a decision within the discretion of  
13 the management unit forester?

14 A. Oh, I don't think so. I think again  
15 we go back, sir, into the total input, into the  
16 planning process where stipulation will be made and  
17 certain prescription made in detail how to deal with  
18 this.

19 Q. Right. But assuming it gets put into  
20 the timber management plan, the ultimate decision as to  
21 whether it needs tending and how the tending will be  
22 done will be the decision of the forester; is that  
23 right?

24 A. In multi-purpose forestry, sir, the  
25 input will be also from public which may say, as

1 example, this: No chemical tending will be done in  
2 that area, and the unit forester or the manager or so  
3 on, bind by this decision put into the timber  
4 management will have to perform as stipulated; in other  
5 words --

6 Q. Is it your -- sorry, go ahead.

7 A. What you are trying to tell me, the  
8 management forester say: Okay, this going to be  
9 tending and that's going to be it. What I'm trying to  
10 convey here to all of you, that this decision will not  
11 only the timber management decision; in other words,  
12 the management forester going to say this going to be  
13 done, it's going to be a synthesis of input where the  
14 forester will be bind to --

15 Q. Will be what?

16 A. Bind to, to the decision, bind...

17 MS. SWENARCHUK: Bound.

18 MR. FREIDIN: Bound?

19 A. Bound.

20 Q. All right, sorry. Bound by the  
21 decision?

22 A. Bound by the decision.

23 Q. In the timber management plan?

24 A. That's right.

25 Q. And I think we have already canvassed

1 the issue as to what happens if there is no consensus  
2 between the forester and the public on that issue, and  
3 I don't think we need to review that again, unless  
4 there's something you want to add.

5 A. If there is no consensus of timber  
6 management planning, then we are all losing, sir. We  
7 have to have plans which will be accepted to all  
8 parties, agreed upon, then only can timber management  
9 forester or management forester in that area provide  
10 these answers.

11 Q. Mr. Marek, based on your evidence  
12 there wouldn't be a timber management plan in this  
13 province because no one agrees on everything at the  
14 present time, and you have indicated to me, while we  
15 deal with this cynicism, in the future there won't be  
16 agreement on everything all the time.

17 So we're back to dealing with reality,  
18 sir, that there will on some issues be a lack of  
19 consensus, we have to work towards improving that?

20 A. Indeed.

21 Q. And I'm saying, while we're working  
22 towards that, when that consensus is not reached and  
23 it's a matter of the silvicultural prescription which  
24 is necessary to achieve a common objective, that  
25 decision has to rest with the person who knows about



1 silviculture, and that's got to be the professional  
2 forester.

3 A. Sir, if this going to happen - and I  
4 hope it will not happen, because that will be disaster,  
5 we would have disastrous consequences to all our forest  
6 management - but say if this will happen, in case you  
7 are right, and you are cynical that we as Canadian or  
8 Ontarions cannot agree on simple management plan.

9 Q. All right. You wouldn't want to  
10 see -- when you say you wouldn't want to see that  
11 happen, you're referring to lack of agreement?

12 A. That there will be disagreement.

13 Q. Yes.

14 A. And confrontation--

15 Q. Yes, okay.

16 A. --of ideas where one group going to  
17 say this, the other one group going to say that, and  
18 eventually you going to find suddenly chaos, which I  
19 see right now in organization I have privilege to deal  
20 with.

21 Then, sir, I would suggest to you that  
22 the unit forester who will make the final decision will  
23 continue in the kind of damper or in kind of confusion  
24 which we have had in the past and, of course, we going  
25 to have.

1 Q. Okay, thank you.

2 MADAM CHAIR: Mr. Marek, you might have a  
3 situation where, with respect to the example of  
4 chemical tending, the forester listens to the public  
5 and the public is well represented and it's very  
6 obvious that in a certain piece of forest, and let's  
7 say it's a multi-purpose forest under your proposed  
8 scheme.

9 THE WITNESS: Proposed scheme, yeah.

10 MADAM CHAIR: The public is saying no  
11 chemical tending, and the forester says: Well, I hear  
12 you loudly, there's no possibility of me  
13 misinterpreting that you're telling me you don't want  
14 chemical tending.

15 THE WITNESS: That's right.

16 MADAM CHAIR: And as the forester, I'm  
17 telling you that under those conditions I can't promise  
18 to guarantee you a new forest in 20 years but I  
19 understand what you're saying and we're going to not  
20 have chemical tending.

21 Now, in the timber management plan, does  
22 the forester say: Yes, I've accepted the public  
23 opinion, I respect it, because I know why they don't  
24 want it, but I'm writing down here myself that I cannot  
25 provide the sort of forestry that I might have had I

1       been able to use that tool.

2                   Do you see the forester taking those  
3       kinds of positions, because Baskerville certainly does,  
4       Baskerville says you tell the public what the costs are  
5       going to be as well as the benefits.

6                   THE WITNESS: He present his case.

7                   MADAM CHAIR: Mm-hmm. And if he loses,  
8       although there is no losing and winning.

9                   THE WITNESS: He lost.

10                  MADAM CHAIR: If he can't do what he  
11       thinks he should do --

12                  THE WITNESS: He lost. He lost, Madam.  
13       Let me tell something from the history, that foresters  
14       and forest manager lost many battles that way, but they  
15       had to.

16                  Madam, you don't have a chemicals in  
17       Europe, for special occasion and on research plots,  
18       yes. People in Europe, in Sweden and Scandinavia say  
19       no chemical, and forester says: Look, I could do it  
20       cheaper, I could do it this way. It's not recognized.  
21       The public is the boss and the politicians who are  
22       recommending the public, they said no chemical and that  
23       is it, so...

24                  MADAM CHAIR: Well, Ontario isn't Europe.

25                  THE WITNESS: I realize that.

1                   MADAM CHAIR: But let's say that there  
2                   were situations where the forester did respect the  
3                   public opinion, and would you say that that is a  
4                   successful outcome of a process of public  
5                   participation?

6                   THE WITNESS: Madam, what choices do we  
7                   have, steady fight or steady confrontation, or should  
8                   we live in peace and understand each other better and  
9                   involve perhaps with more understanding, and that is  
10                  the role of foresters, Madam.

11                  I think the forester right now is not in  
12                  position say I am right hundred per cent. He cannot  
13                  impose it, so let's stop and let's start conversing,  
14                  understand, see results. See results, Madam, that's a  
15                  very important aspect.

16                  MADAM CHAIR: Mm-hmm.

17                  THE WITNESS: And I think that's perhaps  
18                  where we should start. And please, do not - how should  
19                  I put it - when you have such a diverse opinion what  
20                  forestry is all about, what foresters have asked for  
21                  last 40, 50, hundred years, get the timber, get the  
22                  timber, invest timber someplace else, and then have  
23                  profits and so on. It's going to be difficult to start  
24                  more kind of human-like approaches to forest  
25                  management.



1 But one of the greatest challenge to the  
2 forester right now, the manager, and he's talking about  
3 management and he's talking about timber production,  
4 that we somehow going to start a process of really, No.  
5 1, better understanding the forest because we don't in  
6 the first place, our information are lacking many, many  
7 crucial aspects of good forestry because we are new  
8 country, we started forestry -- I think that this kind  
9 of thing we have to start with.

10 MADAM CHAIR: Thank you, Mr. Marek.

11 MR. MARTEL: Can I ask one question. In  
12 your new forest -- you've got two forests, you've got  
13 the intensive forest and you've got the multi-purpose  
14 forest?

15 THE WITNESS: Right.

16 MR. MARTEL: Do you envisage cutting in  
17 the new forest, or the multi-use forest?

18 THE WITNESS: Of course.

19 MR. MARTEL: The multi-use, okay.

20 THE WITNESS: Of course.

21 MR. MARTEL: The other one you just want  
22 to maximize in the other--

23 THE WITNESS: Exactly.

24 MR. MARTEL: --and carry on --

25 THE WITNESS: Optimize. It's the

1 maximization against optimization, Mr. Martel, and we  
2 have to deal with these two concepts in more detail  
3 before we accept or we adopt it, or we are going to  
4 deal, because here we are dealing with grand stand  
5 philosophy, we are going to have two forests.

6 Baskerville testifies something similar  
7 to it because he see the constraints and he's talking  
8 about some of the conflicts which would appear, right.

9 Now, what I'm building on here, let's  
10 deal with idea that we should have to avoid the superb  
11 conflicts, what we have now, these steady battle  
12 between the foresters and companies and government and  
13 communities, what are we doing to our forest. Let's  
14 decide for a while that we are going to share these  
15 things reasonably and we going to establish in order to  
16 feed the mills, hundred mills for the sawlogs, that we  
17 going to consider some other aspects of it and leave  
18 the others.

19 MR. MARTEL: Okay.

20 MADAM CHAIR: Thank you, Mr. Marek.

21 Mr. Freidin?

22 MR. FREIDIN: Q. Shall we move on to the  
23 silvicultural standards on page 2 in relation to black  
24 spruce, please.

25 A. You are talking about black spruce

1 guidelines?

2 Q. No, no, the Forests for Tomorrow  
3 terms and conditions that you had a hand in preparing.

4 A. Oh, the same thing, yeah.

5 Q. And which you endorsed.

6 A. Yes.

7 Q. When you talk about black spruce  
8 working group, I assume when you talk about working  
9 group again, like yesterday, that means working group  
10 as discussed -- as dealt with in the Forest Resources  
11 Inventory?

12 A. In Forest Resource Inventory. Forest  
13 classification Sb so much and then go poplar and so on,  
14 in other words, the spruce working group.

15 Q. Okay. Thank you. Now, if you look  
16 under subparagraph (a) and I'm going to spend some time  
17 on this, we have four paragraphs.

18 A. Yes.

19 Q. In the first paragraph in the first  
20 few lines you talk about mature -- in the first line,  
21 mature black spruce stands. I emphasize the word  
22 stands. See the very first line in the first  
23 paragraph?

24 A. Spruce stands, correct.

25 Q. In the second paragraph you talk

1 about black spruce sites, and I emphasize the word  
2 sites.

3 A. Yes.

4 Q. In the fourth paragraph you talk  
5 about black spruce--

6 A. Stands.

7 Q. Types, and I emphasize the word  
8 types.

9 A. Yes, yes, yes, yes.

10 Q. Is there a difference and, if so,  
11 what are they?

12 A. What you mean? You are talking about  
13 four different paragraphs in four different --

14 Q. No. It's not the meaning of the  
15 whole paragraph. You talk about, in mature black  
16 spruce stands in the first paragraph you should do  
17 certain things.

18 A. Yes.

19 Q. In the second paragraph you say on  
20 black spruce sites classified as something you should  
21 do something.

22 A. Yes.

23 Q. And then in four you say in black  
24 spruce types you should do something.

25 A. Okay.



1 Q. And I wonder whether there is a  
2 difference between those concepts?

3 A. Okay. Sir, let's call it spruce  
4 biome, spruce biome which represent not only the total  
5 biome of black spruce, of spruce ecosystem.

6 Q. What is the relationship of spruce  
7 biomes to black spruce stands which we understand and  
8 can see identified on an FRI map?

9 A. Some call it black spruce stands,  
10 some call it -- ecologists call it spruce biome or...

11 Q. All right. Could I change the words  
12 in the second paragraph to say on black--

13 A. Spruce.

14 Q. --spruce stands classified as such  
15 and such. Would that be okay?

16 A. I didn't get you on this, sir.

17 Q. If I change the wording in the second  
18 paragraph to say in black spruce stands, or on black  
19 spruce stands classified as unstable, fragile, et  
20 cetera, would that have the same meaning as where it  
21 says on black spruce sites?

22 A. Black spruce sites, black spruce  
23 stands, synonymous.

24 Q. Synonymous. And if I go down to  
25 number 4, it says in black spruce types, if I said in

1 black spruce stands below 10 hectares, or with an area  
2 less than 10 hectares --

3 A. Synonymous again.

4 Q. Synonymous again.

5 A. That's right.

6 Q. Thank you very much.

7 A. But it means the different part of  
8 the biome or different part of the ecosystem, but they  
9 altogether are identified as holistic as a system.

10 Q. The words are -- when you say the  
11 words are synonmous, they mean --

12 A. The words are not synonymous, but  
13 they have a meaning, if I may -- here we are in English  
14 I suppose, again, sir.

15 Q. Yes.

16 A. Whooo.

17 MADAM CHAIR: Mr. Marek, I don't think  
18 this is a matter that is going to be any more helpful  
19 for the Board than what we have so far.

20 If you're concerned about terms and  
21 conditions and wording, then do it outside the hearing.

22 MR. FREIDIN: I agree with this issue  
23 here.

24 Q. Mr. Marek, in the first paragraph of  
25 2.1(a) you refer to distinct forest vegetation and soil

1 conditions--

2 A. Right.

3 Q. --should be used.

4 A. Yes.

5 Q. Could you show me, using the  
6 northwest FEC, how you go about doing it?

7 A. Well, it's very clearly specified in  
8 FEC.

9 Q. Could you show me?

10 A. Oh, well there is 14 groups or 15 --  
11 sir, we dealt with that before.

12 MADAM CHAIR: Is this the FEC or the  
13 interpretation?

14 MR. FREIDIN: I don't know.

15 Q. You say in the --

16 A. Very shallow soil over bedrock OG 1  
17 and so on and so on. There is 14 groups in the forest  
18 ecosystem classification, Clay Belt, there is more of  
19 them in the northwestern Ontario.

20 Q. All right. Let's use -- I just want  
21 to know how or which distinct forest vegetation and  
22 soil conditions you are referring to, because if  
23 someone is supposed to do eventually what it says here,  
24 I want to make sure that the people know what it is  
25 that you are saying they are to do?

1 A. Oh, well --

2 Q. All right.

3 A. Well, I got both of them.

4 Q. Which one are you looking at?

5 A. Doesn't make any difference, sir, it  
6 just what you are trying to --

7 MADAM CHAIR: Which page are you on, Mr.  
8 Marek?

9 THE WITNESS: Well, okay. Page 20 in  
10 field guide forest ecosystem classification, the dark  
11 blue book.

12 MR. FREIDIN: Q. Is that the  
13 northwestern Ontario one?

14 A. Site region 3E. No, it's not that  
15 one.

16 Q. Can we use the northwestern one  
17 because that's the one everyone has a copy of.

18 A. Okay. This grouping which deals with  
19 black spruce, and that is what I suppose we are after  
20 here, so what we going to do with that, sir, what do  
21 you want me to elaborate on?

22 Q. Let me see if I can shorten this, Mr.  
23 Marek.

24 A. Beg your pardon?

25 Q. Let me see if I can shorten this.



1 A. Yes.

2 Q. In the FEC guide, I'm looking at  
3 exhibit --

4 MADAM CHAIR: 1532.

5 MR. FREIDIN: 1532.

6 MADAM CHAIR: A.

7 MR. FREIDIN: Yes. If you go to page 63  
8 which is at the third tab.

9 Q. Page 63, jack pine, black spruce,  
10 blueberry, lichen, V-30 in the top right-hand corner.

11 A. Yes, I have it here.

12 Q. Is that a forest vegetation?

13 A. I am dealing with?

14 Q. That you are dealing with and  
15 referring to in (a)?

16 A. No, I am not, because I am not --  
17 sir, I am dealing with black spruce mostly.

18 Q. All right.

19 A. Turn the page, 64, if you don't mind.

20 Q. Yes.

21 A. Black spruce, jack pine, that's much  
22 better, that's a black spruce working group or should  
23 be, jack pine, black spruce. Here is the problem with  
24 black spruce feathermoss, that's a typical one I was  
25 talking here about.

1 Q. Yes, that would be one.

2 A. That would be one. So that's on page  
3 66. Okay, now what is --

4 Q. If this was imposed as a term or  
5 condition, which V types then are you saying would  
6 qualify as being black spruce stands with the  
7 appropriate distinct forest vegetation and soil  
8 conditions such that this term and condition would  
9 apply?

10 A. Oh, there is several of them. There  
11 is a black spruce feathermoss group, there is a V-34  
12 black spruce Labrador tea, there is a black spruce  
13 speckled alder, there is black spruce bunch berry,  
14 black spruce eracaceous shrubs, black spruce  
15 leatherweed.

16 Q. To shorten this, could you undertake,  
17 Mr. Marek, to identify--

18 A. Several.

19 Q. --the distinct forest vegetation and  
20 soil conditions, including the various degrees of jack  
21 pine referred to in each of the forest ecosystem  
22 classification systems which would qualify under this  
23 paragrah?

24 MS. SWENARCHUK: Just a minute. Mr.  
25 Freidin, you are going to have -- can you kindly write

1 out that question. It's not the sort of thing that can  
2 be done quickly off the top of one's head.

3 If you're asking for an undertaking  
4 presumably a response to come back, I don't know when,  
5 Monday, please write out the question.

6 MR. FREIDIN: All right, that's no  
7 problem, I'll write it out and provide it to you later.

8 MADAM CHAIR: All right. Mr. Marek, are  
9 there any mature black spruce stands that you're not  
10 prescribing strip cutting, patch cutting or block  
11 cutting for?

12 I know you're talking about the distinct  
13 forest vegetation and soil conditions, but are there  
14 any mature black spruce stands that don't fall into  
15 these categories?

16 THE WITNESS: This is very well  
17 expressed. These are all mature stands which will be  
18 harvested and my prescription, as stated here, the  
19 guidelines apply to all of them.

20 MR. FREIDIN: Madam Chair, I still will  
21 be asking for the undertaking.

22 MADAM CHAIR: I understand that, Mr.  
23 Freidin.

24 THE WITNESS: Okay.

25 MR. FREIDIN: Q. Can we go down in that

1 first paragraph where you make reference to -- six or  
2 seven lines where you say:

3 "Harvesting shall be by strip cutting,  
4 patch cutting or block cutting in regular  
5 or irregular shapes."

6 A. What page are you talking about?

7 Q. Same paragraph, the first paragraph--

8 A. 2.1 on page 2?

9 Q. --under black spruce working group.

10 A. Black spruce working group. Correct,  
11 yeah.

12 Q. You notice in the middle of the very  
13 first paragraph under black spruce working group you  
14 indicate that you can have strips, patches or blocks in  
15 regular or irregular shapes. Do you see that, there's  
16 a reference to irregular shapes?

17 A. The width of opening should not  
18 exceed twice the height of the tree.

19 MR. MARTEL: No, you're on the wrong -- I  
20 think you're on the wrong page.

21 MR. FREIDIN: On page 2.

22 MR. MARTEL: Page 2.

23 THE WITNESS: Yeah, I have page 2 here.

24 MR. FREIDIN: All right.

25 MR. MARTEL: The sentence above it.



1 THE WITNESS: Okay, I see that now.

2 Okay, sir:

3 "Harvesting shall be by strip cutting,  
4 patch cutting or block cutting in regular  
5 or irregular shapes." Correct.

6 MR. FREIDIN: Q. And can you just  
7 explain to me the reason that you provided for the  
8 creation of irregular shapes?

9 A. Due to the geology of the site, due  
10 to the site patterns and in condition of such a site.

11 Q. Thank you.

12 A. Main -- this is a main reason. There  
13 are other reasons beside which I don't want to get  
14 into.

15 Q. It states here in this same paragraph  
16 that the width of openings should not exceed twice the  
17 height of the trees.

18 A. That is correct.

19 Q. Could we go to the Jeglum article,  
20 the 1982 article which was Exhibit 1585.

21 A. Jeglum. Yes. Which article are you  
22 talking about, the first one '82 or the '84?

23 Q. The '82.

24 A. '82, okay.

25 MADAM CHAIR: Is that in a source book.

1 Mr. Freidin. Or was it a separate exhibit?

2 MR. FREIDIN: No, no, this is one of the  
3 exhibits that I filed.

4 THE WITNESS: Here, Madam, here.

5 MADAM CHAIR: Thank you, Mr. Marek.

6 MR. MARTEL: Have you got a number for  
7 that, Mr. Freidin?

8 MR. FREIDIN: 1585.

9 Q. Okay. Do you have that document?

10 A. Yes, I have article here in front of  
11 me.

12 Q. Can we go to the abstract.

13 A. Abstract. Yes, abstract, yeah.

14 Q. And the conclusion reached based on  
15 this study was that there were no significant  
16 differences in black spruce regeneration among strips  
17 20, 40 and 80 metres wide. Do you agree that that was  
18 the conclusion reached in this study?

19 A. Yes, yes, I'm aware of it, sir.

20 Q. How tall is a mature black spruce, a  
21 good mature black spruce?

22 A. Good mature black spruce can go up to  
23 75, 80 feet, site class X.

24 Q. All right. If it's 80 feet and you  
25 multiply that by two you get 160 feet; correct?

1 A. Yes.

2 Q. Jeglum indicates that there is no  
3 significant difference in the black spruce regeneration  
4 even if the strip is 80 metres wide, and 80 metres is  
5 about 275 feet.

6 Why have you made a rule that you can't  
7 exceed 160 feet when this study on your strip cuts  
8 indicated that you get no significant difference in the  
9 regeneration if you go up to 275 -- pardon me, 250  
10 feet?

11 A. Whatever it may be, I see the point.  
12 I recognize and qualify and agree with Mr. Jeglum's  
13 statement here. On the other hand, the sites or the  
14 research which was done in this area show me very  
15 clearly that depending on site preparation, depending  
16 on, matter of fact site condition, and perhaps damage  
17 done to some of these sites by site preparation as it  
18 was done in this case here, play very important part.

19 This site preparation in all these strips  
20 were done very -- the equipment which I consider very  
21 primitive in 70s, we were not able to provide equipment  
22 as we have available now, and I think Mr. Jeglum  
23 himself realize, and we discuss it very frequently, the  
24 distances and the width of the strips where you can get  
25 regeneration of black spruce as quick as possible, as

1 quick as possible and as stocked as possible, or  
2 maximum stocking in this case.

3 Q. But if one of your concerns was that  
4 the site preparation was primitive back then, I would  
5 assume that if it's less primitive now--

6 A. Yes.

7 Q. --that is all the more reason that  
8 you should be allowed to go 80 metres. I mean, if you  
9 could get good regeneration with poor site preparation  
10 with 80-metre strips, then surely with improvements  
11 that have been made to date you should be able to get  
12 good regeneration in 80-metre strips now?

13 A. Possibly, possibly. Again, depending  
14 on the site, depend on many. The problem I had with  
15 this wide 80-metre regeneration or succession of or  
16 failure of regeneration was that many sites do not  
17 qualify; in other words, the sites are of such a nature  
18 that from my farther experiments and following up these  
19 same experiments what Mr. Jeglum did, that's quite  
20 long time ago as you know, convinced me that we should  
21 go narrower; in other words, the width of the strip  
22 should be minimized in order to get the benefits out of  
23 the strip cutting for growth of the second growth black  
24 spruce.

25 Mr. Jeglum, as you know Mr. Freidin,



1 experiment with growth of black spruce in these strips  
2 as compared to the open clearcuts. You are aware of  
3 it?

4 Q. I am aware of it.

5 A. Okay, good. Then let me say to you  
6 that it's clear that black spruce grew much better -  
7 well, much better - better in the strip cuts than in  
8 the open clearcuts; correct?

9 Q. If that's your evidence.

10 A. It's evidence which is...

11 Q. I'm not here to agree or disagree  
12 with you, but okay.

13 A. What Mr. Jeglum state in the same  
14 paper, sir. You asked me to read that paper, so I read  
15 it again.

16 Q. All right. Let's see if we can keep  
17 on the issue. The issue is the width of the strips.  
18 You've told me that on some strips 80 is too wide?

19 A. That's correct.

20 Q. But on some strips 80 is okay?

21 A. Providing that, providing that.

22 Q. Providing that what? Providing what?

23 A. Providing that the site preparation  
24 is uniform, providing that you have better concept of  
25 survival and better concept for documentation on growth

1 and so on.

2 Q. They got good regeneration on strips  
3 which were 80?

4 A. Which does not mean anything, sir.

5 Q. It means that on some strip cuts you  
6 can get good regeneration when it's 80 metres wide?

7 A. But what's -- okay.

8 Q. All right. Taking into account all  
9 the activities which take place, your terms and  
10 conditions, Forests for Tomorrow's terms and conditions  
11 do not give, do not permit a strip to be--

12 A. No more than two heights.

13 Q. More than 80 metres?

14 A. Correct.

15 Q. And, therefore, even on a site where  
16 it is appropriate to go 80 metres, these terms and  
17 conditions do not permit it; is that not correct, sir?

18 A. Yes.

19 Q. Okay, good.

20 A. There is a reason for it, sir.

21 Q. All right. And what is the reason  
22 for it?

23 A. The reason is, it's the same report  
24 is telling you, that considering environment, and many  
25 of these strips may vary from narrow to wide, the

1 experimentation and the measurements we have done is  
2 that many instances the shorter, the shorter of the  
3 original uncut stand provide better condition than  
4 wider strips which may be up to hundred or 200 metres,  
5 in case 80 metres.

6 Therefore, may I suggest to you, sir,  
7 that if you have a wide strip, regeneration here in the  
8 narrower concept will be better growing than here at  
9 the 80-metre, and I want to have immediate or as soon  
10 as possible results where the spruce get the whole  
11 benefits of this protective...

12 Q. All right. Are you suggesting that  
13 we should not rely on the results of the taxonomist Dr.  
14 Jeglum in terms of his conclusions?

15 A. No, he didn't measure these results  
16 of growth. This is strictly regeneration. This is  
17 results which state there is so many seedlings in the  
18 year one, two, three, four, but he doesn't really say,  
19 and he say later on when he experimented with the  
20 growth in these things, that the trees here are growing  
21 better in narrow strip than in the wider strip or in  
22 open clearcut.

23 Q. All right. We may have to come back  
24 to this.

25 A. I wish you do.

1 Q. Mr. Marek, the last sentence talks  
2 about when the final cut can occur.

3 A. Correct.

4 Q. And it indicates that the -- I'm  
5 sorry, before we get into that, you made the comment in  
6 your evidence that the loss of productive land to roads  
7 and landings was approximately 10 per cent.

8 A. Oh God. I have made statement which  
9 was week ago by Premier counsel who said I shouldn't  
10 bring it as evidence because that was 10 per cent on  
11 Kimberly-Clark which we have, as you probably r  
12 emember, discussed and immediately -- That's where this  
13 10 per cent came in. I hope, if my memory served me  
14 right, you objected.

15 Q. I take it that the loss of 10 per  
16 cent --

17 MADAM CHAIR: Excuse me, I don't know  
18 what the reference is to--

19 MS. CRONK: I don't either.

20 MADAM CHAIR: --10 per cent for  
21 Kimberly-Clark.

22 THE WITNESS: I have stated in my  
23 testimony, Madam Chair, that we have experimented in  
24 Geraldton District.

25 MS. CRONK: I recall. Sorry to



1 interrupt. There was an objection, as I understood, it  
2 was during the evidence-in-chief, Mr. Marek started to  
3 refer to something that he described as a landing  
4 study.

5 THE WITNESS: Correct.

6 MS. CRONK: That we had not heard of and  
7 not received production of, I objected. I understood  
8 the objection was sustained and no further evidence was  
9 given on that issue.

10 MADAM CHAIR: All right, thank you.

11 MR. FREIDIN: Q. Let's forget the roads  
12 and landings. The loss of 10 per cent of the  
13 productive land base and the volume that that would in  
14 fact represent is a matter of concern, would be a  
15 matter of concern to you regardless of the cause?

16 A. Very much so.

17 Q. And as I understand your evidence, 5  
18 per cent would be also the same, you would be concerned  
19 about that as well?

20 A. I am concerned about any removal of  
21 productive land.

22 Q. Or loss of --

23 A. Or loss to whatever.

24 Q. Or loss of volume if in fact we are  
25 talking about mill requirements, loss of volume from

1 stands?

2 A. Yes, yes. Eventually winds up with  
3 the production, yes.

4 Q. Thank you. Now, you gave some  
5 evidence about minimizing blowdown or strips -- pardon  
6 me, minimizing the amount of blowdown in a strip cut  
7 through certain means so that you wouldn't get blowdown  
8 equal to what you might get in a clearcut.

9 A. No, no, no.

10 Q. All right. I'm sorry, poorly  
11 phrased. What are the mechanisms that you would use  
12 to -- I'm trying to save some time.

13 When you said that you were going to  
14 reduce the amount of blowdown through certain  
15 mechanisms, were you talking about buffering--

16 A. Buffering zone.

17 Q. --and the orientation of strips?

18 A. Orientation of strips, of the  
19 protection of faces, strip faces; in other words,  
20 protection against machinery which goes through the  
21 strip.

22 Q. All right.

23 A. By extracting and so on.

24 Q. But in terms of blowdown from the  
25 wind--

1 A. Yes.

2 Q. --you do this through buffers and the  
3 orientation of strips?

4 A. Yes, that is only two out of probably  
5 other.

6 Q. All right. Let's just deal with  
7 those two.

8 A. Yes.

9 Q. Would you turn to your source book  
10 report by Fleming and Crossfield.

11 A. Yes,

12 Q. I'm not sure which source book it is.

13 MS. SWENARCHUK: One.

14 MR. FREIDIN: One.

15 THE WITNESS: I have to look at Fleming  
16 here. What source book is it, Madam, 1 or 1?

17 MADAM CHAIR: It's 1.

18 THE WITNESS: One. Yes, I got it.

19 MR. FREIDIN: Q. Would you turn to page  
20 No. 21, please -- turn to 19, first.

21 A. 19.

22 Q. See where it starts the discussion  
23 and the conclusions on page 19?

24 A. Discussion and conclusions, yes.

25 Q. Now, turn over to page 21 which is

1 part of that.

2 A. Yes.

3 Q. Am I correct, sir, that these were  
4 strip cuts that you were responsible for preparing the  
5 prescriptions for?

6 A. Yes.

7 Q. And would you agree with me that if  
8 you look at page 21 in the last full paragraph on the  
9 right-hand side of the page--

10 A. Yes.

11 Q. --which says 'neither', would you  
12 agree with me that Jeglum, based on the study of your  
13 strip cuts and your prescriptions, concluded that  
14 neither buffering of the open ends of the strip by  
15 adjacent timber nor strip orientation had a consistent  
16 effect on volume losses.

17 Do you agree that that was the conclusion  
18 that they came to based on --

19 A. I disagree with it.

20 Q. You don't agree that Mr. Jeglum has  
21 reported accurately what in fact occurred on that site?

22 A. As he saw it. As he saw it.

23 Q. As he saw it. And you saw it  
24 differently, so you disagree with Dr. Jeglum on that  
25 issue?



1 A. That is correct.

2 Q. Thank you. Let's deal with the issue  
3 which is raised in the last sentence of your -- pardon  
4 me, going back to Forests for Tomorrow.

5 A. Okay.

6 Q. Same paragraph, first paragraph, it  
7 says at the end:

8 "Before the final cut occurs on these  
9 areas, adjacent cut-over..."

10 A. What page are you on, sir?

11 Q. Page 2, talking about black spruce.

12 Under black spruce, the first paragraph, the last  
13 sentence of the first paragraph says:

14 "Before the final cut occurs on these  
15 areas, adjacent cut-over areas must must  
16 be producing viable seed."

17 Do you see that?

18 A. Yes.

19 MADAM CHAIR: What page are we on, Mr.  
20 Freidin?

21 THE WITNESS: Page 2.

22 MR. FREIDIN: Page 2.

23 MADAM CHAIR: Thank you.

24 MR. FREIDIN: And if I just might have a  
25 moment, I have misplaced something. Oh, here it is.

1 Q. I take it that the leave time that  
2 you have provided for here; i.e. --

3 A. Two years, three years.

4 Q. No, no. It says:

5 "Before the final cut occurs...", right,  
6 "...on these areas, adjacent cut-over  
7 areas must be producing viable seed."

8 A. That's right.

9 Q. Would you agree with me, Mr. Marek,  
10 that black spruce generally begins to bear cones at age  
11 10 to 15 years?

12 A. Correct.

13 Q. And would you agree when it starts to  
14 bear cones you don't get a lot in the first years but  
15 it increases as the trees get beyond the 10 or 15  
16 years?

17 A. As the tree build up bigger crowns  
18 and start maturing, yes, it builds up more seed  
19 sources, the cones and, of course, seed source.

20 Q. How high is a black spruce on a good  
21 site if it's 10 to 15 years old?

22 A. Before it's 10, 15 years old, look at  
23 Plonski's yield tables, it start with to age 20 and --

24 Q. What about your sites? Can you just  
25 tell me on your sites how tall were the black spruce

1 when they were 10 to 15 years old?

2 A. Well, differs on sites.

3 Q. Give me a good site?

4 A. Well, good site. 10, 15 year old  
5 should be what, 16 feet.

6 Q. Okay.

7 A. Just a guess, sir.

8 Q. Well now, if you cut -- if you can't  
9 cut the leave strip then; i.e., the final cut cannot  
10 occur until the adjacent cut-over must be producing  
11 viable seed.

12 A. Yes.

13 Q. Based on what you've just told me,  
14 that means that you can't cut the final coupe for at  
15 least 10 or 15 years after the adjacent coupe was cut;  
16 am I correct?

17 A. Would you state again, what?

18 Q. All right.

19 A. Because I...

20 Q. Your last sentence--

21 A. Yes.

22 Q. --says you can't cut the final --  
23 make the final cut until the adjacent cut-over--

24 A. Produce seed.

25 Q. --is producing viable seed. You have

1 told me it doesn't produce viable seed for 10 or 15  
2 years after it was harvested and even then it's not a  
3 lot in the first few years, and I'm saying that the  
4 logical conclusion one comes to, based on your wording,  
5 is that when you're doing strip cutting you can't cut  
6 the last cut until at least 10 or 15 years, you have to  
7 leave that last thing standing there for 10 or 15 years  
8 before you can go back and cut it because if you don't  
9 wait 10 or 15 years the adjacent cut-over is not  
10 producing viable seed.

11 A. I just cannot see your reasoning  
12 there. I'm sorry, perhaps somebody can interpret it  
13 for me.

14 Q. Look at the words. I just want you  
15 to please, would you just pick up the document, the  
16 Forests for Tomorrow terms and conditions.

17 A. Yes.

18 Q. Would you read the words slowly:  
19 "Before the final cut occurs, the  
20 adjacent cut-over..", are you talking  
21 about the adjacent strip there?

22 A. I'm talking about adjacent strip.

23 Q. All right.

24 A. I am not talking about -- this is  
25 what I cannot grasp, this is logic, sir. It is obvious



1 to me that I am dealing with seed source and protection  
2 source which will provide the seeds and you are talking  
3 about young stands of 15 years. I'm sorry.

4 Q. Mr. Marek --

5 A. Please, would you explain it to me in  
6 writing.

7 MS. SWENARCHUK: Wouldn't it just be  
8 speeded up if the question was put to Mr. Marek to  
9 explain the last line and how he envisions that  
10 working, and then if Mr. Freidin thinks that the  
11 wording doesn't comply with that vision, that's a  
12 matter that can be dealt with surely outside of the  
13 hearing room.

14 MR. FREIDIN: I thought the words were  
15 quite clear, and that's why I feel I should ask him. I  
16 have a problem with the obvious meaning of those words,  
17 Madam Chair, and I would like to explore the  
18 consequences of the obvious meaning of those words.

19 MADAM CHAIR: All right, Mr. Freidin, do  
20 your diagram quickly. It's clear to the Board what Mr.  
21 Freidin is trying to get at and, that is, he is saying  
22 can you not take the final coupe until the area around  
23 it, the cut-over area around it has reached cone  
24 bearing age, which would be 10 or 15 years, and I think  
25 Mr. Freidin's point is that if there is no other seed

1 source in the area, no other standing timber, do you  
2 have to wait for the cut-over area surrounding the last  
3 standing uncut strip?

4 THE WITNESS: Mr. Freidin, go ahead with  
5 your art there because I appreciate.

6 MR. FREIDIN: Q. All I'm saying, this is  
7 your--

8 A. Strip cut.

9 Q. A box.

10 A. That's right.

11 Q. And the strips with the "x"s in them  
12 are cut?

13 A. That's right, and here --

14 Q. The idea is--

15 A. Standing timber.

16 Q. Is that this cut, when can you  
17 harvest -- when can you harvest this one, the one where  
18 I'm putting the No. 1 in?

19 A. That's right.

20 Q. When do you harvest that?

21 A. When you harvest it. No. 1 --

22 Q. In terms of when you harvested --

23 A. Well, this is harvested.

24 Q. Yes.

25 A. Seed is coming into the -- seed

1       germinates here.

2                   Q.   Right.

3                   A.   Got to be 80 per cent stocked to  
4       black spruce.

5                   Q.   No, No. 1 -- no, let's do it this  
6       way.   No. 1 was cut?

7                   A.   Oh, this was cut.

8                   Q.   On January the 1st, 1990.

9                   A.   Right.

10                  Q.   Okay?

11                  A.   Yes.

12                  Q.   Now, it is going to be regenerated  
13       from strip which I've identified as 'A'.   The seed  
14       source will come from 'A' which is still standing?

15                  A.   Correct.

16                  Q.   And will regenerate--

17                  A.   Yes, yes.

18                  Q.   --strip No. 1.

19                  A.   Yes.   Yes.

20                  Q.   Now, when you cut strip No. 'A'--

21                  A.   'A', correct.

22                  Q.   Where is the seed source coming from  
23       to naturally regenerate it?

24                  A.   In alternate strip cutting in many  
25       instances it come from the seeds on the ground which is

1 already in the stands, in the humus or in the mosses.  
2 There is advanced regeneration which should be  
3 protected, and if this whole system failed, then of  
4 course you have to somehow reforest this, you may  
5 evengo planting.

6 Q. Mr. Marek --

7 A. Yeah.

8 Q. Mr. Marek, In the areas you were  
9 talking about where you've got black spruce--

10 A. Yeah.

11 Q. --and you were telling us that you go  
12 in there and you harvest the black spruce and get rid  
13 of the poplar, get rid of the balsam fir.

14 A. Yes, yes.

15 Q. Are you telling us that in the  
16 majority of cases that strip No. 'A' will regenerate to  
17 80 per cent stocking or more as a result of cones,  
18 black spruce cones on the ground?

19 A. Yes. It's right in Jeglum's report  
20 which states the number of trees is the advanced  
21 regeneration, advanced regeneration under the canopy of  
22 these uncut stands. Please follow the report.

23 Q. Will you show me in the report, and  
24 maybe that is what you should do over the lunch hour.

25 A. You get over tomorrow.



1 Q. Show me the report where it says  
2 that.

3 A. Yes -- you gave me that to read, you  
4 read it just as well. Sir, Jeglum --

5 Q. Obviously I didn't read it as well.

6 A. Obviously you didn't. Sir, the  
7 advanced number of germinants, advanced growth in these  
8 uncut stands, there is large number of seedlings which  
9 will pop out, and No. 3 is, of course, that you have  
10 also seed sources from the buffer zones, you have seed  
11 coming in, and in many cases these stands, which are  
12 the second cut, are well stocked, according to Jeglum  
13 up to 60 per cent after so many years. I don't know if  
14 that is statement here.

15 Q. That report, sir, does not deal with  
16 the leave strip, it specifically says we have not dealt  
17 with the problem of regenerating the leave strip, and  
18 that is an issue which must be dealt with and  
19 addressed. I suggest to you --

20 A. Then you read your report first, sir,  
21 because Jeglum stated in this report the number of  
22 seedlings of advanced regeneration in the stands which  
23 are uncut.

24 MADAM CHAIR: Is it your evidence then,  
25 Mr. Marek, that you don't have to wait 10 to 15 years

1 before harvesting the leave strip because of advanced  
2 regeneration and seeds that are already in the leave  
3 cuts?

4 THE WITNESS: Madam, this is well  
5 documented in many reports, that. Matter of fact in  
6 Clay Belt in many areas you don't even have to have  
7 seed source because seed is already in these mosses.

8 MR. FREIDIN: Q. I'm talking about your  
9 area and I would ask you, sir, to take me to the  
10 portion of the 1982 Jeglum report and point to me where  
11 it indicates that the regeneration in the leave strip  
12 after it is cut would provide adequate stocking per  
13 your definition through advanced growth, or the seeds  
14 from buffer strips. I want you to do that for me,  
15 please?

16 A. I will examine it again and bring to  
17 your attention where the count was made in standing  
18 timber presenting number of seedlings and advanced  
19 growth present there.

20 Q. I suppose the question I would ask,  
21 if there is sufficient advanced growth to in fact  
22 provide adequate regeneration in the leave strip, when  
23 you do that there was sufficient advanced growth in the  
24 first cut, so why wouldn't you just clearcut the whole  
25 thing and let the whole place regenerate through

1 advanced growth, Mr. Marek?

2 A. Sir, you are making mockery out of  
3 forestry, I'm sorry to say this. Forestry does not  
4 work this way and I'm sorry to hear it.

5 Sir, in some area indeed you are right,  
6 but overall you are so basically wrong that you go back  
7 to the basic forestry books which will tell you exactly  
8 why, why is not done and why is done successfully and  
9 then we can talk about it.

10 Sir, why we are doing strip cutting. You  
11 completely misunderstand and misinterpret the basic  
12 rule of forestry which states, and I go back to what I  
13 had written, and please you study it carefully, you  
14 study it very carefully what's written here. I like to  
15 present that as a document of my presentation.

16 MR. FREIDIN: All right. Maybe over the  
17 lunch hour, Madam Chair, I will read that and Mr. Marek  
18 can read the report and show me --

19 THE WITNESS: Oh, I will not.

20 MR. FREIDIN: And show me the section  
21 that he's referring to.

22 THE WITNESS: Sir, I will not do it over  
23 lunch because I have been up with your statement  
24 reading at night and you don't remember it, and you try  
25 to convince me to read it. Now, I go for walk and we

1 can meet on Monday or Tuesday discuss it.

2 MR. FREIDIN: Madam Chair --

3 MADAM CHAIR: Mr. Marek, is there one  
4 sentence in the Jeglum report that you recall?

5 THE WITNESS: Yes, I do very well,  
6 because I read it again, again, again.

7 MADAM CHAIR: Are you able to point the  
8 Board to where that sentence is without spending any  
9 time over the lunch hour looking at the document again?

10 THE WITNESS: Madam, I will present that  
11 at my convenience, when I feel I like to study again.

12 I will not do it during, because I put up  
13 with this for last three weeks, do it over lunch hour,  
14 do it this, and he throw it at me ten o'clock in the  
15 evening I have to look at it.

16 Madam, there are certain fair plays on  
17 the part of fellow who stand there for last three  
18 weeks, so please give me a break.

19 MADAM CHAIR: Mr. Marek, the Board is  
20 certainly sympathetic to the position of the witnesses.  
21 We have great respect for the amount of effort that  
22 goes into being a witness and an appreciation of how  
23 aggravating the whole process is.

24 Our job is to get the information in  
25 front of us quickly, and we put ourselves outside of



1       what goes on between the parties, among the parties,  
2       and what goes on between counsel and a witness.

3               I think we've reached a little impasse  
4       here, Mr. Freidin. Mr. Marek, I don't want you to  
5       characterize him as being completely uncooperative on  
6       this matter. I think what we're going to do is ask Mr.  
7       Marek to produce the specific reference on Monday.

8               THE WITNESS: Thank you.

9               MADAM CHAIR: And you will return to that  
10       point on Monday. If you could guarantee that you would  
11       be finished today with your cross-examination, Mr.  
12       Freidin--

13              MR. FREIDIN: I cannot.

14              MADAM CHAIR: --we would urge Mr. Marek  
15       to do this work very quickly, but you are not going to  
16       be finished today?

17              MR. FREIDIN: No.

18              MADAM CHAIR: Then Mr. Marek will look  
19       this up and present it on Monday.

20              MR. FREIDIN: Thank you, that's  
21       sufficient. All I want to do is have the reference.  
22       Thank you very much, Madam Chair.

23              MADAM CHAIR: Thank you. And we will be  
24       back -- we will take our lunch break now. Enjoy your  
25       walk, Mr. Marek.

1 THE WITNESS: Thank you.

2 MADAM CHAIR: We will be back in an hour  
3 and a half.

4 MS. SWENARCHUK: Come back at a quarter  
5 to two then, Madam Chair?

6 MADAM CHAIR: Yes.

7 ---Luncheon recess taken at 12:15 p.m.

8 ---On resuming at 1:45 p.m.

9 MADAM CHAIR: Please be seated.

10 How was your walk, Mr. Marek?

11 MR. MARTEL: Madam Chair, I didn't go for  
12 a walk because I had to check out of hotel and that's  
13 the main reason that I couldn't -- I thought I wouldn't  
14 comply with the request, but I did it the results for  
15 benefits of my friend there are here, instead of  
16 discussing it, Madam.

17 MADAM CHAIR: Thank you very much.

18 MR. FREIDIN: All right. Perhaps we  
19 could begin then by marking that piece of paper as the  
20 next exhibit.

21 MADAM CHAIR: That will be Exhibit 1587.  
22 Thank you, Mr. Marek. All right. Mr. Marek -- let's  
23 describe the Exhibit 1587 first, Ms. Swenarchuk.

24 THE WITNESS: Madam Chair, it deals with  
25 request or discussion I had with my friend there before

1 noon about the stocking in uncut strips and Mr. Jeglum  
2 in his report which was given to me to read, and I  
3 think that should be read by all of our friend too.

4 States that:

5 "Stocking of black spruce seedlings in  
6 the pre-cut assessment...", pre-cut means  
7 prior cutting in the stands which are uncut here,  
8 "...was significantly different in tree  
9 strips with blocks but similar in the two  
10 year --"

11 MR. FREIDIN: Q. I'm sorry, where are  
12 you reading, what page?

13 A. Page 6 of your --

14 Q. Of the 1982 study?

15 A. Yeah. And it states:

16 "Stocking drop from..."

17 Q. I'm sorry, just --

18 A. "...from 57 per cent overall in the  
19 pre-cut condition to 49 per cent in the  
20 first year after cutting."

21 So which means that the stocking in  
22 pre-cut strips or in uncut strip was 57 per cent. That  
23 should answer my friend's enquiry and be part of my  
24 testimony.

25 Q. The 57 per cent being referred to is

1 stocking in the --

2 A. Uncut strips.

3 Q. In the uncut strip?

4 A. That's right, because he said  
5 pre-cut; in other words, these strips are identical to  
6 pre-cut strips.

7 Q. All right. Let's turn to Table 5,  
8 please, at page 12.

9 A. Correct.

10 Q. Mr. Marek, this table is entitled --

11 MR. FREIDIN: This is the 1982 report,  
12 this is Exhibit 1585 at page 12, not in the source  
13 book, it was one of the documents I filed.

14 MADAM CHAIR: Yes. And this is page --

15 MR. FREIDIN: Yes.

16 MADAM CHAIR: Page 12 is the Table 5.

17 MR. FREIDIN: Just for your information,  
18 Madam Chair, in case you didn't have the document in  
19 front of you when Mr. Marek was giving the evidence, he  
20 was quoting from page 6 of that document.

21 MADAM CHAIR: Yes.

22 MR. FREIDIN: If you go to page 6 of the  
23 document in the right-hand column in the second  
24 paragraph under the heading results:

25 "Stocking dropped from 57 per cent..." et



1 cetera.

2 MADAM CHAIR: Yes.

3 MR. FREIDIN: That was the reference Mr.  
4 Marek made and Mr. Marek is indicating that was a  
5 stocking which was taken in the uncut--

6 THE WITNESS: Correct.

7 MR. FREIDIN: --strip or putting it  
8 another way, the stocking which was in fact in the  
9 leave strip; right, same thing?

10 THE WITNESS: It may and may not be.

11 Again --

12 MR. FREIDIN: Q. All right. In the  
13 uncut strip. It was the stocking in the uncut strip?

14 A. Okay.

15 Q. Now, Table 5, if we look at the  
16 left-hand column and we look under the list of species  
17 there, it says black spruce; do you see that?

18 A. Yes.

19 Q. And it has in the second column,  
20 vertical column pre-harvest 1974, and it indicates a  
21 stocking of 57 per cent?

22 A. Correct.

23 Q. Now, Mr. Marek, this table, if we  
24 look at the title it's called the Effects of Leave Time  
25 on Regeneration of the Five Main Species, and it says:

1 "Data are for all seedlings less than 2.5  
2 centimetres dbh and individual scarified  
3 strips combined."

4 Am I correct, sir, that really what that  
5 means is that the stocking which is being referred to  
6 is stocking to advanced growth, these are the younger  
7 trees in the stand, not the trees that would be  
8 harvested?

9 A. Correct.

10 Q. Now, if you have got stocking in the  
11 uncut strip of 54 per cent -- pardon me, 57 per cent--

12 A. 57.

13 Q. --in the form of advanced growth,  
14 would you agree with me that when you cut that strip  
15 that it is highly likely that you will damage some of  
16 that advanced growth?

17 A. Exactly.

18 Q. How would that advanced growth of 57  
19 per cent reduced by the damage which would occur  
20 through logging the uncut strip, result in stocking of  
21 80 per cent which you indicated is what is required?

22 A. To the influence on new seed source  
23 in the cut-over area, in the clearcut strips. It's a  
24 combination of stocking, combination of advanced  
25 stocking, combination of seeding - that's why we do

1 strip cutting, sir, that's why I disagree with you when  
2 you say you clear cut it, you know, that last statement  
3 that you made walking to your place, you made a very  
4 improper statement.

5 You concluded that if you clearcut it  
6 that you might as well clearcut it and plant it, or  
7 something like, and this is why we do strip cutting in  
8 order to enrich or supplement the regeneration in the  
9 clearcut strip, Madam.

10 Q. And, Mr. Marek, if the basis on which  
11 the last strip will regenerate to your 80 per cent  
12 after cutting is a combination of advanced growth which  
13 is in there of 57 per cent less something--

14 A. Yes.

15 Q. --plus what will be contributed by  
16 seed from the adjacent coupe --

17 A. No, that coupe is gone. If you  
18 talking --

19 Q. Where is the seed going to come from  
20 to increase the stocking from 57 per cent less  
21 something from advanced growth to 80 per cent which you  
22 say is a mandatory requirement?

23 A. The advantage of strip cutting is  
24 that it minimize impact or can shelter the regeneration  
25 that is eventually established in the clearcut strip.

1           The advantage of strip cutting is that  
2       some of the seed which is buried can be germinated or  
3       will germinate, not all, and the other one is that in  
4       modified cutting or any small area clearcut management  
5       you have remnants of seed source; in other words, the  
6       original stand here and there distributed throughout  
7       the area, because not everything is clearcut, and you  
8       have quite an advantage of getting some seed source  
9       from that, as I pointed out in my photograph, that way  
10      supplementing natural regeneration of these strips from  
11      A to B and into C.

12           Q.   Would you agree with me that if you  
13      are using a two-coupe system and you've got 57 per cent  
14      stocking of advanced growth in strip A--

15           A.   Yes.

16           Q.   --on this exhibit --

17           MR. FREIDIN:   What number are we going to  
18      give this, Madam Chair?

19           MADAM CHAIR:   Exhibit 1587.

20           MR. FREIDIN:   Thank you.

21           MADAM CHAIR:   And are we describing it  
22      simply as a sentence from page 6 of the 1982 Jeglum  
23      article?

24           MS. SWENARCHUK:   No.

25           MADAM CHAIR:   How do you want to describe



1 this, Ms. Swenarchuk?

2 MR. FREIDIN: Why don't we call it sketch  
3 of strip cuts and stocking results prepared by me.

4 ---EXHIBIT NO. 1587: Sketch of strip cuts and stocking  
5 results prepared by Mr. Freidin.

6 MR. FREIDIN: Q. Now, if you have got  
7 something less than 57 per cent advanced growth in  
8 strip A and you cut it, you have now told me that that  
9 stocking can increase due to seeds in the ground  
10 germinating?

11 A. Yeah.

12 Q. Would you agree with me that that  
13 stocking could not increase as a result of seeds from  
14 strip one?

15 A. That strip is gone.

16 Q. Right. So you can't get any seeding  
17 contributed by the last -- by the first coupe until we  
18 have passed 10 or 15 years plus from the date that  
19 strip No. 1 was cut?

20 A. Hypothetical question.

21 Q. Why so hypothetical?

22 A. Hypothetical.

23 Q. Why?

24 A. Because, sir, in practice, in  
25 practice, most of the seed trapping I have done,

1 trapping seed, you know, trapping seed is from seed  
2 source someplace where it come from, trapping. I'm  
3 trapping just like trapping marten or trapping...

4 Q. All right. I think if you keep going  
5 I might understand you.

6 A. Okay. When I trap, the experience  
7 which was done with trapping of seed. Say you put seed  
8 traps here, and you follow that seed trapping for  
9 certain time --

10 Q. This is like an experimental thing  
11 where you're trapping seed?

12 A. In order to find out what input you  
13 get into natural regeneration.

14 Q. I see.

15 A. In many occasion there has been  
16 documented throughout this strip cutting experiment  
17 that seed may come all the way from, some time it come  
18 mile, mile and a half away.

19 Q. Sometimes. Would you agree with me,  
20 sir, that the theory and the purpose of strip cutting  
21 is, in the first cut strip to in fact get seeding from  
22 the standing strip which is left?

23 A. Correct. But that has been said many  
24 times here, Madam Chair.

25 Q. So are you now telling me that in the

1 last cut that we'll increase from 57 per cent stocking  
2 due to advanced growth to 80 per cent stocking to black  
3 spruce because of the additional contribution of seeds  
4 in the ground and seeds blowing in--

5 A. Right.

6 Q. --from stands removed from the strip  
7 cut area?

8 A. Correct. And from possible seed  
9 source left behind in the second coupe. Sometimes we  
10 leave fringes, some time leave seed groups. This is  
11 done frequently, so you have additional seed source.

12 In other words, we are talking about how  
13 we going to reforest the remaining strips, and that has  
14 been discussed here on many occasions. Should I go  
15 into it again, Madam Chair?

16 MADAM CHAIR: No, we have heard that, Mr.  
17 Freidin.

18 MR. FREIDIN: No.

19 MADAM CHAIR: Mr. Marek, is it the case  
20 that the first coupe which benefits from having an  
21 uncut strip--

22 THE WITNESS: Correct.

23 MADAM CHAIR: --beside it or on either  
24 side of it, would you expect the first coupe to be  
25 better stocked because it has--

1 THE WITNESS: Immediate.

2 MADAM CHAIR: --immediate and close seed  
3 source?

4 THE WITNESS: Correct.

5 MADAM CHAIR: You would expect it to have  
6 higher stocking than the following coupe?

7 THE WITNESS: Correct.

8 MADAM CHAIR: Over a shorter period of  
9 time?

10 THE WITNESS: Well, again, this period  
11 may vary due to all kind of conditions I explained,  
12 supply of seed, and condition of the site preparation  
13 and so on.

14 But, Madam Chair, it's very important to  
15 realize that in some cases we don't get hundred or 80  
16 per cent stocking across the field, and I'm not  
17 defending that, but the purpose of strip cutting is  
18 that there is a protection for the natural regeneration  
19 which is very important, and I wish again bring the  
20 report which specify very clearly the protective aspect  
21 for that natural regeneration which grows much better  
22 than in open areas. That has been documented in the  
23 same report, Madam.

24 MR. FREIDIN: Q. Now, you've testified  
25 about this before. When you're talking about the



1 Ameliorative effect, the beneficial effect--

2 A. Beneficial.

3 Q. --of strip cutting, you're talking,  
4 as I understand it, about the benefits that you  
5 perceive that the standing strip provides to the  
6 establishment and regeneration of seedlings in the  
7 first cut?

8 A. That is correct.

9 Q. That same ameliorating effect, of  
10 course, is not provided to the second cut of a  
11 two-coupe system because the standing timber which is  
12 adjacent to it is quite different than --

13 A. Trees removed.

14 Q. All right. So you agree? Do you  
15 agree --

16 A. Yes. I said yes.

17 Q. Yes. All right, thank you.

18 A. Yes, but...

19 Q. Now, when you -- yes? I don't want  
20 to cut you off.

21 A. But what is important that that  
22 regeneration of natural region from the same stands  
23 which were there before. That's a very important  
24 aspect of modified cutting also.

25 Q. Yes, I understand that.

1 A. Okay.

2 Q. Now, in the cut here which we have  
3 identified as cut A, the one which would be cut last in  
4 the two-coupe system--

5 A. Yes.

6 Q. --where we have 57 per cent stocking  
7 to black spruce, am I not correct that this stand also  
8 has, if we look at Table No. 5, stocking to balsam fir  
9 of 70 per cent?

10 A. Yes.

11 Q. How are you going to harvest in that  
12 second coupe, Mr. Marek, in order to minimize or  
13 prevent damage to the advanced black spruce seedlings?

14 A. Well, first of all, let me point out  
15 that the balsam which is as advanced growth under  
16 shorter condition will not last, majority will die  
17 because balsam is a very tolerant species, when it  
18 exposed to solar radiation will disappear, not all, but  
19 most of them will be destroyed by shear exposure.

20 There is others things, there is other  
21 species which you have here which are incidental and  
22 they do actually not bother the black spruce  
23 establishment, in many instances many of these species  
24 are complimentary.

25 So you cannot say competition one way or

1 the other, you have to identify specifically what kind  
2 of competition or ingrowth. That is a term which I  
3 like to use, ingrowth of other species occur, which is  
4 extremely, extremely important.

5 And in case you have a balsam -- pardon  
6 me, poplar seed trees or leaving poplar standing here,  
7 then you have a really problem with ingrowth of poplar.  
8 So is that what you are...

9 Q. No, I'm just concerned about -- if  
10 one is concerned about balsam fir on these stands and  
11 you've got stocking of 70 per cent in the stands--

12 A. That's right, under the condition of  
13 pre-cut. After you cut it and expose it, balsam  
14 usually desiccate; in other words, balsam as a young  
15 seedling cannot take exposure, it's got to be also  
16 protected, and that's the finesse of forestry, sir,  
17 that is dynamic of forest which we understand so  
18 poorly.

19 Q. Mr. Marek--

20 A. Yes.

21 Q. --as I understand what you have just  
22 told me, you're saying that the second cut in a  
23 two-coupe system can be cut within two or three years  
24 of the first cut.

25 A. Whoa.

1 Q. Well, first of all, we don't have to  
2 rely on -- to get the 80 per cent stocking that you say  
3 you can achieve, you don't have to rely on seed from  
4 the adjacent coupe?

5 A. Yes, we do rely on.

6 Q. No, no, no. In strip No. A which is  
7 the second cut.

8 A. Where the 57 per cent was present  
9 before cutting, advanced growth.

10 Q. All right.

11 A. Okay.

12 Q. When are you proposing that it would  
13 be acceptable to cut?

14 A. To remove?

15 Q. No, to remove --

16 A. Exactly.

17 Q. Or to harvest strip A--

18 A. Yes.

19 Q. --in relation to the time when you  
20 cut strip 1?

21 A. In other words, I read you what you  
22 are trying to say, and I assure you that it can be done  
23 by simply saying, when you going to cut the second  
24 strips.

25 Q. Yes, okay.



1                   A. When you going to cut the second  
2 strip. Why don't you say that, when you going to cut  
3 second strip?

4                   Q. When are you going to cut it?

5                   A. Now, I understand.

6                   Q. In relation to the time you cut the  
7 first one?

8                   A. Yeah, that's right, so this is done,  
9 we have cut it.

10                  Q. Tell me. Can you answer me?

11                  A. Yes, I will. That's the purpose of  
12 your questioning of course. Sir, this is up to the  
13 forester to fulfill his prescription, when that  
14 stocking in these second strips reach what the forester  
15 feel he have --

16                  Q. In the second strip or the first  
17 strip?

18                  A. Sir, we are in the second strip now.

19                  Q. All right. When the stocking in the  
20 second strip, yes?

21                  A. Reach certain stocking with --  
22 stocking which could ensure earliest crown closure as  
23 possible -- did you read this, sir, during the lunch as  
24 I did my one, so I don't have to repeat this, obviously  
25 it's here.

1                   The aim of this to achieve crown closure  
2 as soon as possible with many seedlings in order to  
3 bring the productivity up to the level which optimize  
4 or in some cases maximize the production for the  
5 primary species establishment.

6                   Q. Okay. Now, you've just told me that  
7 you can cut the second strip. When you're trying to  
8 determine when you can cut the second strip, you should  
9 be considering when the stocking in the second strip--

10                  A. In the second strip, yes.

11                  Q. --reaches stocking which could--

12                  A. Guarantee.

13                  Q. --encourage crown closure as soon as  
14 possible?

15                  A. Right here, that's right.

16                  Q. And the stocking in the -- and are  
17 you then saying that you would determine that through  
18 an examination of what the stocking in the second coupe  
19 was?

20                         In the second strip -- the only stocking  
21 in the second strip that's going to be there before  
22 it's cut is going to be advanced growth?

23                  A. No. We said, previously we agreed  
24 there is advancement of that growth, there is  
25 additional growth, additional seeding in this second

1 coupe, sir. We discussed it for five minutes.

2 Q. Before it's cut. Before it's cut or  
3 after it's cut?

4 A. After it's cut.

5 Q. And my question, sir -- my question  
6 with respect is, I'm trying to find out when can you  
7 cut the second strip, not when will it regenerate, when  
8 can you cut it?

9 If you cut the first strip in year one,  
10 how many years do you have to wait before you can go  
11 back and cut strip 2?

12 A. Sir, it may vary between two and 15  
13 years. Between two and 15 years, depending...

14 Q. All right. All right. And what are  
15 the criteria which you say should be looked at in order  
16 to determine whether it is proper to cut the second  
17 coupe at 2 or 15 years?

18 A. The assurance of crown closure in the  
19 earliest possible time to maintain source or to have  
20 source nutrients in the mineral soil and so on, that is  
21 the objective.

22 In other words, I have to have enough  
23 tree in that second cut, in that second clearcut, that  
24 I have crown closure as soon as possible; in other  
25 words, stocking, high stocking.

1 Q. 80 per cent is your standard.

2 A. Oh, fine.

3 Q. All right.

4 A. 80 per cent standard.

5 Q. As soon as possible?

6 A. As soon as possible. Unless certain  
7 circumstances other than timber management is involved.  
8 If I am talking protection of wildlife, if I am talking  
9 about other user, then the forest manager have to  
10 consider longer period; in other words, until certain  
11 height of those trees are achieved; in other words, the  
12 regeneration achieved in order to serve as a habitat or  
13 browse or whatever it is for the other users, other  
14 users of the forest.

15 Q. Now, 80 per cent stocking as soon as  
16 possible?

17 A. Right.

18 Q. Who decides what the time frame--

19 A. Is?

20 Q. --is?

21 A. The time frame is. That is  
22 specification or prescription written in the management  
23 plan and under certain site-specific condition and so  
24 on.

25 Q. By the forester based on his



1 understanding of silvics?

2 A. And of course development in stands  
3 itself; in other words, dynamics, he observes it and  
4 dynamics, yes.

5 Q. All right. The forester does that,  
6 that's why it's his job?

7 A. Oh, I think so that's his job.

8 Q. Okay.

9 A. Surely.

10 Q. Now, if that is the criteria that you  
11 believe should be used.

12 A. Right.

13 Q. Then would you agree that that  
14 situation of having enough advanced growth in the--

15 A. Not advanced, regeneration.

16 Q. Enough -- all right, enough  
17 regeneration in the second coupe before it is cut, all  
18 right.

19 A. I don't know before it's cut.

20 Q. It's before -- that's what you're  
21 saying.

22 A. No, I'm not saying, you...

23 Q. That you could --

24 MS. SWENARCHUK: Madam Chair, isn't it  
25 worth clarifying whether there is a fundamental

1       misunderstanding going on here on that subject, and I  
2       think there is, and it would save us a lot of time if  
3       that issue could just be clarified.

4                   MR. FREIDIN:   Fine.

5                   q.   Listen, if I'm not on the same wave  
6       length, I want you to tell me.  I'm not trying to put  
7       words in your mouth, I am trying to understand when we  
8       cut that second coupe.

9                   A.   And I told you that already a few  
10      minutes ago.

11                  Q.   All right.  Is there a confusion here  
12      as Ms. Swenarchuk suggested, or are we understanding  
13      each other so far?

14                  A.   Well, I suppose we will understand  
15      each other if we discuss this for next two days.

16                  Q.   Well, let's hope not.

17                  A.   Oh, perhaps we should.

18                  MS. SWENARCHUK:  I think where the  
19      misunderstanding comes in, Mr. Freidin, is whenever you  
20      talk about regeneration established before the cut -  
21      which is I think what you just said - and I think that  
22      you should clarify -- it might be helpful to clarify  
23      with Mr. Marek whether he has intended to say or has  
24      said that you determine the time of the second cut in  
25      accordance with regeneration establishment in that cut.

1 MR. FREIDIN: All right. Let me ask that  
2 question.

3 Q. Is the timing of the second cut  
4 dependent in any way on the amount of regeneration  
5 which--

6 A. Is established.

7 Q. --is in by regeneration -- by  
8 regeneration in the second cut -- no.

9 MADAM CHAIR: I think you're better off  
10 calling it the final coupe.

11 MR. FREIDIN: all right. I don't want to  
12 use the word regeneration.

13 MR. MARTEL: No, use advanced growth  
14 maybe.

15 MR. FREIDIN: Let me use advanced growth.

16 Q. When you've got a mature stand,  
17 you've got the timber that you are going to harvest,  
18 and you've got -- let's say black spruce, and you've  
19 got black spruce which is small and you're not going to  
20 harvest, perhaps you're going to leave it there as  
21 advanced growth; is that right?

22 A. Well, of course you don't harvest  
23 tree. Sir, why don't you read that article by Jeglum,  
24 he describe exactly what the problem is. He describe  
25 even the sizes of so-called advanced regeneration in

1 report you are using.

2 Q. I know. He referred to things less  
3 than 2.5 centimetres dbh.

4 A. Oh right down to -- regeneration from  
5 this size right down to...

6 Q. Less than 2.5 centimetres dbh is what  
7 he was counting.

8 A. That's correct.

9 Q. Now, is that what you refer to, you  
10 used the phrase renewal -- regeneration, I'm sorry.  
11 Were you referring to that advanced growth as  
12 regeneration?

13 A. That's right, may be part of the  
14 regeneration in this strips, the second coupe strips.

15 Q. All right.

16 A. Because you remove the canopy and  
17 there is advanced growth there which sometimes survive,  
18 in case of balsam fir will not survive and, hence, what  
19 I said before. So I don't know what the argument is.

20 Q. There's no argument.

21 A. Your statement doesn't describe  
22 anything either, because I am talking about very clear  
23 procedure, how to regenerate the second strip, how it's  
24 being done, how nature does it.

25 Q. I want to get to the issue of how you



1 regenerate it. I'm trying to determine -- well, let me  
2 just back right off here and let me try coming at it  
3 this way, Mr. Marek.

4 A. Yes, go ahead.

5 Q. Let me give you a proposition and  
6 tell me whether this reflects really what you're trying  
7 to convey to me.

8 A. Yes, go ahead.

9 Q. That you should --

10 A. Go ahead, sir, I am listening very  
11 tentatively. I got to drink in meantime, but you go  
12 ahead.

13 Q. That you should not be allowed to  
14 harvest the second coupe until you feel that there is a  
15 reasonable chance that you will get 80 per cent  
16 stocking in or after you cut that second -- the  
17 remaining timber?

18 A. Correct, but it's not only advanced  
19 growth, it's new regeneration which came in after you  
20 cut it.

21 Q. All right. And where --

22 A. That's component.

23 Q. Oh yes, the new regeneration that  
24 comes in after you cut, you said; is that what you  
25 said?

1                   A. I said there is advanced growth plus  
2 the regeneration coming from neighbouring stand from  
3 the isolated trees, it may flow from two miles away.

4                   Q. Right. And we agree, sir, that the  
5 seed which comes in from the adjoining areas does not  
6 come in from the adjacent -- the first coupe because  
7 they are just wee little trees?

8                   A. Which is regenerated maybe that high,  
9 that high.

10                  Q. That's right.

11                  A. Okay.

12                  Q. Okay. If that is the case, then I  
13 don't really think that we need the term and condition  
14 2.1(a) to say that we can't -- look at the words, sir.

15                  A. Yes.

16                  Q. I want you to look at the words,  
17 please, so we don't have to do this twice. Look at the  
18 words in the first paragraph of 2.1(a) and in the last  
19 sentence it is saying:

20                         "Before we can do the second coupe..."

21                  A. Yes.

22                  Q. "...the adjacent cut-over areas...",  
23 which you told me was the strip,

24                         "...must be producing viable seed."

25                         If the adjacent strip does not contribute

1 viable seed to reach this 80 per cent standard that  
2 you've suggested, I suggest that we take those words  
3 out of there and we put some words in there that  
4 reflect what you are saying; and, that is, that:  
5 Before the final cut occurs there must be a reasonable  
6 expectation or the expectation is a reasonable one that  
7 80 per cent stocking will occur in the second coupe  
8 after you have cut it.

9 A. Sir, that is, that is something which  
10 put really, really stringency on forest management  
11 because -- on timber production and so on, because once  
12 you even second coupe; in others words, when you start  
13 reforest the area by multiple use system, multiple  
14 cutting system, you may or may not achieve exactly 80  
15 per cent, you may achieve 69 per cent, you may achieve  
16 someplaces 85 per cent, in some cases hundred per cent.

17 Q. Yes.

18 A. And I think the reason here for using  
19 80 per cent was mainly directed, mainly directed on the  
20 first coupe where we have to have a really high  
21 stocking to start the whole system back into  
22 production.

23 So, in other words, the first coupe  
24 regenerated 80 per cent plus, the second coupe may be  
25 regenerated 65 per cent, and here comes the manager if

1 he -- if that 65 per cent represents early crown  
2 closure, and as I pointed out on the picture there,  
3 then indeed he may say: Sure, this is satisfactory  
4 now, I have a good crown closure, that's the whole  
5 ecosystem is working very well, let's remove the second  
6 strip. And I didn't want to go into this because these  
7 are fairly complex system and have to argue the point.

8 MR. FREIDIN: Could I just have one  
9 moment, please.

10 MADAM CHAIR: Yes. Mr. Marek, given what  
11 you have just said then, unless you've had very dense  
12 advanced growth that has grown very quickly after the  
13 first cut--

14 THE WITNESS: And it survived, this is  
15 very important.

16 MADAM CHAIR: And it survived very  
17 quickly, it's unlikely that you would have the final  
18 coupe removed in two years?

19 THE WITNESS: No, we did it and we have  
20 success. In some cases you may, on conditions and so  
21 on.

22 MADAM CHAIR: Because of crown closure  
23 associated with the advanced growth?

24 THE WITNESS: That's right.

25 MADAM CHAIR: Yes. Thank you.



1 MR. MARTEL: But in that last sentence it  
2 says:

3 "Before the final cut occurs on these  
4 areas, the adjacent area...", that's the  
5 next where the first coupe was?

6 THE WITNESS: Right.

7 MR. MARTEL: "...must be producing viable  
8 seed."

9 I am not sure that is what you want to  
10 say, because it's not going to produce any seed for 15  
11 or 20 years maybe.

12 THE WITNESS: That's right.

13 MR. MARTEL: Somewhere down the road, and  
14 that sentence seems to throw--

15 THE WITNESS: That's correct.

16 MR. MARTEL: --the rest of it out of  
17 whack, Mr. Marek. Can you see I think what the concern  
18 is, that we know -- you have been arguing and putting  
19 forth your position for some time that you will get it  
20 in the second coupe, you get it from advanced growth,  
21 and you will get it from seeds that are left deposited,  
22 but the other area where coupe one occurred, you're not  
23 going to get the seed there for a long time.

24 MADAM CHAIR: Well Mr. Marek has just  
25 said you will, if there's lots of advanced growth, you

1 will be getting seeding from advanced growth?

2 THE WITNESS: No.

3 MR. FREIDIN: No.

4 MR. MARTEL: No.

5 MR. FREIDIN: No, he doesn't. Advanced  
6 growth doesn't provide seed until it's 10 or 15 years  
7 plus.

8 MR. MARTEL: We're just talking in the  
9 area right next door, Mr. Marek. Are you going to get  
10 seed from there -- how long before you get seed from  
11 there?

12 THE WITNESS: Well, the fact is by  
13 studying the situation of the so-called first coupe  
14 regeneration which should supply seed to the last  
15 coupe, okay, but in many cases you get seed in five,  
16 six, seven years.

17 We have cases where black spruce is  
18 capable, honestly trees are that high, and already  
19 produces cones, and here we haven't got really  
20 documentation where we can say, you know, exactly  
21 because the research didn't work on it.

22 But I think that is a good point what  
23 where we should examine. The seed trapping is  
24 extremely cumbersome, extremely long-term thing,  
25 because I have done it in many instances, where does

1 the seed come from, because you put the trap say over  
2 here - there is a seed trap like for cats and dogs or  
3 something - there is a seed group too.

4 Lots of seed may come from here, lots of  
5 seed may come from tree which is growing here, you  
6 know, moves in, some seed may be coming from, as I  
7 said, miles away during the spring when you have crust  
8 on the snow, the cones open up and there they go.

9 So it's difficult to trap -- it's easy to  
10 trap it, but it's difficult to find the origin, where  
11 it comes from. And many foresters in many other areas  
12 did the trapping by not only establish the trap on the  
13 ground, they have towers, towers where they trap these  
14 seeds in order to find where that seed come from, and  
15 we know now in black spruce that indeed there are  
16 various component of the new regeneration coming from  
17 all over.

18 So the problem is not seed, the problem  
19 is to get that seed germinated here, in these last  
20 coupe, because you may have all kinds of -- through  
21 logging and through disturbances, through the whole  
22 environmental changes even in these narrow strips which  
23 happen, frost for instance and so on.

24 You must be very careful to distinguish  
25 between seed coming in and seed which is germinating

1 and eventually get established as future tree, and here  
2 comes this paramount question that forester got to have  
3 as early -- it's the crown closure, the component which  
4 get the nutrients cycling by moisture, the branches,  
5 and so he must watch and say: Okay, do I have enough  
6 germinants, do I have also young trees which will then  
7 benefit from these conditions.

8 MADAM CHAIR: Well, we understand your  
9 position, Mr. Marek, but that's not what this condition  
10 says.

11 THE WITNESS: Beg your pardon?

12 MADAM CHAIR: We understand your  
13 position, but it seems to be different than what is  
14 written here with respect to the words 'adjacent  
15 cut-over areas must be producing viable seed', as being  
16 the only condition --

17 THE WITNESS: No, Madam, this tree,  
18 that's -- the whole ecosystem, the whole biome is  
19 supported, even that tree which is --

20 MADAM CHAIR: So the whole surrounding  
21 area as far as the eye can see and farther, we're not  
22 talking about the adjacent --

23 MR. MARTEL: You're not talking about the  
24 cut before. I think Mr. --

25 MR. FREIDIN: When I asked him and I said



1 cut-over, he said: No, no, he says, I'm talking about  
2 the strip.

3 MADAM CHAIR: You weren't talking about  
4 the strip that was cut, the first cut, you weren't  
5 talking about that?

6 THE WITNESS: But that is not the only  
7 contributor. I am not trying to say, yes, the strip is  
8 there to supply --

9 MR. MARTEL: But that's where the  
10 misunderstanding is between you and Mr. Freidin. I  
11 think Mr. Freidin takes the position that you said in a  
12 question he raised, and I'm not going to try and put  
13 words in your mouth, but I'm just trying to straighten  
14 out where I see the difference, we are getting closer  
15 to what the actual difference is - and that is, does  
16 this really mean (a) just the area that you cut two  
17 years ago, and you're saying, no, it's everything, it's  
18 edge from --

19 THE WITNESS: Certainly.

20 MR. MARTEL: It's a whole series of  
21 factors?

22 THE WITNESS: But please, I like to point  
23 out that the words which Mr. Freidin was using before  
24 lunch, he says what the hell - didn't you say that -  
25 you clearcut it and you will depend on advanced

1 regeneration, and then of course the conversation  
2 started: Oh, is there what, is there advanced  
3 regeneration which may contribute to the stocking of  
4 the second or third strip.

5 And that is a fine point which I like to  
6 distinguish.

7 MR. MARTEL: I think what he said, and I  
8 wrote it down, was if you strip cut and you have some  
9 advanced growth and it's going to be helpful, then why  
10 couldn't you do the whole area at once, relying on the  
11 advanced growth to regenerate the area.

12 I think that is what upset you.

13 THE WITNESS: Something like that. Oh,  
14 didn't upset me because I expect this, because so  
15 simple, but it is not as simple as Mr. Freidin is  
16 telling us.

17 MADAM CHAIR: That's fine. I think we  
18 can leave this point, Mr. Marek, and Ms. Swenarchuk has  
19 taken note of the wording of this condition. The Board  
20 doesn't think it reflects Mr. Marek's evidence, and we  
21 will leave it with you.

22 MR. FREIDIN: Thank you, Madam Chair.

23 Q. Then, Mr. Marek, if you go back to  
24 two matters, still dealing with these strip cuts, your  
25 strip cuts which have received so much attention from

1 Mr. Jeglum and others.

2 I think you indicated that -- we had a  
3 discussion about the width of strips?

4 A. That's correct, up to 80.

5 Q. Up to 80.

6 A. That's right.

7 Q. You indicated that the 1982 report, I  
8 think you suggested wasn't current and that --

9 A. No, I didn't say -- I said hopefully  
10 I disagree on these wide strips. I said that, sir.

11 Q. And I think you suggested that Mr.  
12 Jeglum had somehow changed his view on that and now  
13 he's in agreement with you that you should have  
14 narrower strips?

15 A. After seeing results, yes, he's  
16 changed. I am in contact with him steadily on this,  
17 yes.

18 Q. All right. Can you turn please to  
19 tab -- pardon me, the Jeglum 1989 article.

20 A. What? Is that in the --

21 Q. That is in your source book.

22 A. Source book, which number 2. Jeglum  
23 here, yes. I think this is Jeglum. Alternate Strip  
24 Clearcutting to Regenerate Black Spruce, Why Aren't We  
25 Using It More?

1 Q. That's the one, sir.

2 MADAM CHAIR: Is that 1 or 2?

3 MS. SWENARCHUK: Two, Madam Chair.

4 MADAM CHAIR: Thank you.

5 THE WITNESS: Here.

6 MADAM CHAIR: Thank you, Mr. Marek.

7 MR. FREIDIN: Q. And I think you agreed  
8 with Ms. Cronk during her questioning that this is the  
9 most recent document, publication in relation to--

10 A. That is correct.

11 Q. --these strip cuts?

12 A. Yes.

13 MADAM CHAIR: What page are you on, Mr.  
14 Freidin?

15 MR. FREIDIN: All right.

16 Q. Would you turn please to page 9, and  
17 we are dealing with this suggestion that Dr. Jeglum has  
18 somehow changed his mind about the 80.

19 A. No, no, I didn't say that. I didn't  
20 say that about that 80. We are talking about other  
21 strip cutting in other areas of which we are studying.

22 No, please. He said something in 1981 or  
23 '79, that stands for him. What I'm saying, that Mr.  
24 Jeglum now after doing more research and making  
25 observation that we are talking about narrower strips



1 and so on.

2 Q. All right. Let me refer you to page  
3 9 at the bottom, it says this.

4 A. Yes.

5 Q. This is the most recent article by  
6 Jeglum, 1989:

7 "The standard operational strip in the  
8 shallow soiled upland sites in the Domtar  
9 operation is 60 metres."

10 A. Yes.

11 Q. "However, if the site is very rocky  
12 and rugged, then site preparation will  
13 expose a high proportion of bedrock..."

14 A. Yes.

15 Q. "...which should be reduced to, say,  
16 40 metres to increase the amount of  
17 shelter provided by the adjacent leave  
18 strips."

19 A. Yes.

20 Q. "If the site is predominantly wet  
21 with lots of sphagnum, the width could be  
22 increased to 80 or 100 metres. It is  
23 possible to make leave strips narrower in  
24 order to obtain a higher proportion of  
25 inexpensive natural regeneration..."

1 A. Yes.

2 Q. "...in the first cuts...", et cetera.

3 A. See that's already, that's already  
4 modify some of the statement before.

5 Q. So he is saying that there are  
6 various widths that one might want to go to, up to a  
7 hundred metres depending on the circumstances, and I  
8 suggest that that, therefore, indicates that you were  
9 incorrect when you suggested that he somehow was  
10 advocating narrower strips and, more particularly, I  
11 would suggest that it is contrary to the intent of  
12 FFT's term and condition 2.1(a) which indicates, as we  
13 have already reviewed, that strip cut widths shall not  
14 exceed two times the height, which you indicated was  
15 approximately 160 feet?

16 A. Sir -- Madam Chair, Mr. Freidin said  
17 incorrect. Was I incorrect in what, stating in the FFT  
18 statement that I agree with certain widths, or what?

19 Q. No, suggesting that Dr. Jeglum has  
20 reciled somehow from his original position of strips of  
21 80 metres and the like, and is now advocating, based on  
22 his conversations with you, narrower strips?

23 A. Well, he already changed his opinion  
24 to 40 metres from the previous one, from 80 metres  
25 where we were talking about and now he's talking about

1 40 metres.

2 Well, let me point out, sir, that when we  
3 dealing about special prescription and when we dealing  
4 especially in this case varying the widths from 40 to  
5 80 and from 80 say to 20 metres, so I think we  
6 should -- we are not playing any games, there are sites  
7 there are sites where forester, due to circumstances,  
8 due to the unexpected problem, the difficulty with  
9 logging, should go in wider strip and I don't think  
10 this manual or the FFT statement contradicts it,  
11 flexibility.

12 Q. All right. Let's put it this way.

13 A. Yeah.

14 Q. Regardless of what the words in that  
15 2.1(a) say, they should be clearer or clearly reflect  
16 that the widths can vary, that they can vary at least  
17 up to 100 metres depending on site conditions according  
18 to Jeglum. Would you agree with that?

19 A. No.

20 Q. Why not?

21 A. Because I just don't believe that.

22 Sir, before I have suggested that strip width should be  
23 no more than two heights. I have examined the whole  
24 spectrum of not only regeneration but also moisture  
25 condition, moisture condition, condition of the

1 terrain, and so I give a very careful attention to it.

2 And may I assure you if I would have  
3 found, I personally have found, not Dr. Jeglum, if I  
4 would have thought that I would have been justified to  
5 expand the width of the strip to two miles and it was  
6 beneficial to the renewal of the forest, I would have  
7 gladly done it, but I couldn't.

8 Q. So you and Dr. Jeglum just disagree  
9 then on this issue?

10 A. Oh yeah.

11 Q. No, you do?

12 A. Yes, we do.

13 Q. All right. Another issue you gave  
14 evidence some days ago that the narrower the strip the  
15 less the blowdown. Did I get it down correctly; is  
16 that your evidence?

17 A. Sir, we are again dealing with yes or  
18 no, because there are gray areas between. Yes, I have  
19 said that narrower strip are preferable if the total  
20 layout of strip is qualitatively sound, and if it's not  
21 of course then I have very little choice.

22 Q. In terms of blowdown.

23 A. In term of blowdown, because blowdown  
24 will be severe and will increase blowdown.

25 Q. The narrower -- but to avoid



1 blowdown, do you go narrower or do you go wider?

2 A. If the layout is done properly--

3 Q. Yes?

4 A. --the narrow strips have many  
5 advantages to the wide strip, including blowdown.

6 Q. All right. I am just concerned about  
7 the advantages of blowdown.

8 A. Yes, I know.

9 Q. Is it your evidence that if the  
10 layout is properly done, narrow strips are better in  
11 terms of reducing blowdown than wider strips?

12 A. Correct.

13 Q. Would you please turn to --

14 A. I know Sheffield and Weetman. Madam,  
15 we are repeating the same thing again, we are going to  
16 go for ever and ever. We have discussed that report by  
17 Crossfield and I have mentioned very clearly why we  
18 entertain, or why I feel that narrow strips are  
19 preferable, including blowdown, if the layout is done  
20 properly.

21 In case of research which was done by  
22 Fleming and Crossfield the layout was not properly  
23 done, it was not my layout, therefore, we had all kind  
24 of incremental damage to blowdown.

25 Q. Who did the layout?

1 A. Oh, case of Crossfield I think it was  
2 done Domtar.

3 Q. You had no input?

4 A. Very little. Because you see, sir,  
5 one important thing in a modified cutting is not only  
6 layout but the direction of the roads, direction of the  
7 roads.

8 Q. We have already talked about this,  
9 we've talked about the orientation and the buffering  
10 and you indicated that they made the wrong observation;  
11 right, you already told me that?

12 A. Who did wrong observations?

13 Q. I referred you to your source book in  
14 relation to the Crossfield article, which I assume is  
15 in -- looking at Crossfield, Volume No. 2, would you  
16 turn to that.

17 A. Yeah, I know it by heart, believe me.

18 MS. SWENARCHUK: Volume 1.

19 MR. FREIDIN: Q. Volume 1, I'm sorry.

20 A. And classify who made the  
21 observation.

22 Q. All right. I will give you a chance  
23 to deal with that, I just want to make sure the Board  
24 is following this.

25 A. Yeah.

1 Q. Turning to page 21, just dealing with  
2 this -- you're asking me this observation.

3 I referred you this morning to page 21 or  
4 the first full paragraph on the right-hand side of the  
5 page where Fleming and Crossfield concluded that:

6 "Neither buffering of the open ends of  
7 the strip by adjacent timber or strip  
8 orientation has a consistent effect on  
9 volume losses."

10 And you told me that they were wrong,  
11 that that was the wrong observation?

12 A. No. Exactly. So we discuss it  
13 already.

14 Q. All right. That's not the part I  
15 want to go to now.

16 A. Okay.

17 Q. Now, we're talking about the issue of  
18 the width and effect on blowdown. I have your evidence  
19 on that.

20 A. Yes.

21 Q. And I suggest to you, Mr. Marek, that  
22 in these strip cuts on page 21 the conclusions which  
23 have been made by the authors are, and we look at page  
24 21 the right-hand side of the page, going up five, six  
25 or seven lines down from the top, and it says:

1 "Strips should be as large as  
2 regeneration requirements, topography and  
3 soil and stand conditions permit."

4 We are talking about blowdown here.

5 "Therefore, 80-metre wide as opposed to  
6 narrower alternate strip cuts are  
7 recommended as long as they provide for  
8 sufficient regeneration and adequate site  
9 protection on the shallow soiled upland.

10 If the size of the first cut strips is to  
11 be increased in relation to the leave  
12 strips to ensure better regeneration, the  
13 tradeoffs of additional volume loss  
14 through greater windfall and mortality  
15 resulting from narrower leave strips  
16 versus improved natural regeneration must  
17 be considered."

18 All I'm trying to do, Mr. Marek, is to  
19 put the record straight; that you've got to make a  
20 tradeoff and that these authors say that the wider the  
21 strip the better it is in terms of alleviating  
22 blowdown, not what you have suggested in your evidence  
23 and, that is, that it should be narrower to avoid  
24 blowdown?

25 A. No, I don't accept it. The lines



1 have very much to do with it which is not even  
2 mentioned, partially. Actually, you can look through  
3 the example, you know, but I have my own opinion, I  
4 testify to my observation, sir, regardless what Mr.  
5 Fleming and Crossfield said.

6 Q. Are you saying, sir, that that  
7 conclusion is wrong because the buffering and the  
8 orientation was wrong?

9 A. No, strips were too short, strips  
10 were too short, sir, because pleasing Domtar for layout  
11 for wood extraction certain distances of skidding and  
12 so on.

13 Q. How long were the strips?

14 A. Oh, they were no more than 200 to 300  
15 feet. They should be at least half a mile long.

16 Q. By the way, how long is -- is there  
17 an average size strip in terms of length that you  
18 recommend?

19 A. A length? Yes, as long as possible.

20 Q. As long as possible.

21 A. As terrain allows and the skidding  
22 distance allows and so on.

23 Q. What's the longest strip you have  
24 ever seen?

25 A. Oh, I think I have seen a thousand

1 feet, depend on the terrain.

2 Q. A thousand feet?

3 A. Yeah, approximate. I didn't measure  
4 them, let's put it this way.

5 Q. No, no, that's fine, that's fine.

6 And if we took your strip width of 160 feet, I just  
7 want this -- we would end up with 160,000 square feet  
8 in a strip?

9 A. Could be.

10 Q. What's that in acres? Is it an acre?

11 A. Sir, you are calculating. You do it  
12 all.

13 Q. I will do the calculation.

14 A. Please do so. Please do so.

15 Q. Thank you. Okay. Let's move down to  
16 the second paragraph, 2.1(a) where we are talking about  
17 black spruce stands.

18 A. You talk 2.1(a) again.

19 Q. This is the FFT

20 A. FFT, okay. Okay, okay, fine.

21 2.1(a), yeah, black spruce working group.

22 Q. Actually, I'm sorry, but before we do  
23 that, have you got the 1982 Jeglum report?

24 A. Jeglum, yes.

25 Q. 1585.

1 A. Yes, yes, yes.

2 Q. Just before we leave that.

3 A. Yeah, '82. Okay, what page?

4 Q. Page 12, the table we were looking  
5 at.

6 A. That's right.

7 Q. Now, the results -- am I correct,  
8 sir, that the results which are the stocking results  
9 which are indicated in the years '76, '78, '79 and  
10 '80--

11 A. That's right.

12 Q. --are in the first coupe?

13 A. Does it say -- where does it  
14 identify -- the effects have been... This is a pre-cut  
15 assessment.

16 Q. All right.

17 A. '74. Yes, that will be from '74 to  
18 '80, so I'm not quite sure where it actually belong  
19 here.

20 Q. All right. I'm sorry, I'm starting  
21 to lose the paper war now.

22 MADAM CHAIR: Is this a good time for the  
23 afternoon break, Mr. Freidin?

24 MR. FREIDIN: Wonderful. I just found  
25 it.

1 THE WITNESS: Recess?

2 MR. MARTEL: Recess. Let's move out.

3 ---Recess taken at 2:45 p.m.

4 ---On resuming at 3:05 p.m.

5 MADAM CHAIR: Thank you.

6 MR. FREIDIN: Q. On the 1982 Jeglum  
7 report, the Exhibit 1585, I just wanted to direct your  
8 attention, Mr. Marek, to page 18.

9 A. Yes.

10 Q. Where we have the discussion, and you  
11 notice on the right-hand side of the page, first  
12 paragraph, it says:

13 "This experiment did not address the  
14 problem of how to regenerate leave  
15 strips."

16 A. No.

17 Q. Okay.

18 A. But I'm still failing -- what page  
19 are you on?

20 Q. Page 18.

21 A. I have 18, yes.

22 Q. On the right-hand side of the page,  
23 first full paragraph, "This experiment..."

24 A. I must have it.

25 Q. You may have the wrong one, it's the



1 1982 --

2 A. Oh.

3 MS.SWENARCHUK: Mr. Marek, it's the copy  
4 that MNR provided.

5 THE WITNESS: Oh, that's again that '82  
6 thing.

7 MR. FREIDIN: Q. Let's just do it this  
8 way, Mr. Marek. Let's see if we can hurry this up.  
9 Here we go. Here's 18, it says:

10 "This experiment did not address the  
11 problem of how to regenerate leave  
12 strips."

13 A. Okay, okay, okay.

14 Q. So therefore, can we conclude, sir,  
15 that the stocking results which we find at page 12 are  
16 in fact stocking results which were done on the first  
17 coupe?

18 A. From the advanced growth in the  
19 standing timber, yes.

20 Q. And from whatever seed came from the  
21 leave strips?

22 A. Yeah, that's right.

23 Q. Okay, thank you. And that indicates  
24 that after four years, if we look at page 12, the  
25 stocking to black spruce in the first coupe was 65 per

1 cent?

2 A. 65 per cent, that's right.

3 Q. Thank you very much.

4 A. Yeah.

5 Q. Now, you made a comment this morning,  
6 Mr. Marek, that if we looked at the Jeglum results it  
7 would indicate that the strip cuts or the trees in the  
8 strip cuts grew much better than in the clearcut. Do  
9 you remember telling me that?

10 A. That's documented. I don't know if  
11 it's the same report, but I think it is, but -- no, the  
12 other one.

13 Q. It's the 1984 report?

14 A. '84, that's right.

15 Q. Let's just go to the 1984 report to  
16 examine that proposition. That's Exhibit 1586.

17 MS. SWENARCHUK: What's the proposition  
18 again, Mr. Freidin, please?

19 MR. FREIDIN: The proposition is that the  
20 strip cuts grew much better than the clearcuts --  
21 regeneration in the strip cuts grew much better than in  
22 the clearcuts.

23 Q. All right. Do you have that report?

24 MADAM CHAIR: That was 1586, Mr. Freidin?

25 MR. FREIDIN: Yes, 1586.

1 MADAM CHAIR: All right, thank you.

2 THE WITNESS: Okay. What page, Mr.

3 Freidin?

4 MR. FREIDIN: Q. Okay. Would you turn  
5 to Table No. 4 on page 10.

6 A. Yes.

7 Q. By the way, this was the article  
8 where they were actually doing a test, as the title  
9 says, of results, planting versus seeding.

10 A. Yes.

11 Q. And they made those comparisons in  
12 lowlands and uplands and on clearcuts--

13 A. And strip cuts.

14 Q. --versus strip cuts.

15 A. Correct.

16 Q. That's what it says right in the  
17 title?

18 A. That's correct.

19 Q. So Table No. 4 then deals with  
20 uplands; is that right? Table 4, total height per  
21 centimetre for planted stock and seed spots in uplands?

22 A. Yes.

23 Q. All right. And clearcuts and strip  
24 cuts as well in those uplands.

25 A. Yeah.

1 Q. And what they do is, they show the  
2 results or report the results for total height  
3 increment in the situations indicated?

4 A. Yes.

5 Q. There are four different treatments,  
6 planting bareroot, being the first one on the left-hand  
7 column.

8 A. Yes.

9 Q. Planting paper pots, applying bare  
10 seed.

11 A. Bareroot stock.

12 Q. Bareroot. The third one is applying  
13 bare seed?

14 A. Bare seed, okay.

15 Q. And the fourth--

16 A. Shelter seed.

17 Q. --treatment is shelter seed?

18 A. Yes.

19 Q. And they then compared what sort of  
20 total height increment they got in clearcuts and strip  
21 cuts in relation to each of those treatments?

22 A. That's right.

23 Q. And what they did, if we go to Table  
24 5.

25 A. Yes.



1 Q. They were looking in this case again  
2 in the uplands. Do you see that in the second line of  
3 the title, Table 5, and this time they were looking at  
4 current annual height increment?

5 A. Increment.

6 Q. And again, going down the left  
7 column, they did it for the four different regeneration  
8 treatments and again compared results, clearcut versus  
9 strip cuts?

10 A. Yes.

11 Q. On Table No. 6 on the next page they  
12 went to the lowlands or they're reporting results on  
13 lowlands, we see that in the first line?

14 A. Yes, yes, yes.

15 Q. And they are looking at total height  
16 increment. They did the same thing on the lowlands for  
17 total height increment as they did on the uplands?

18 A. Yes.

19 Q. And if we turn to page 13 and Table  
20 No. 7, they did the current annual increment  
21 measurements on the lowlands in the same fashion as  
22 they did for the uplands?

23 A. Correct, correct.

24 Q. Okay. So really what we've got here  
25 then, if we look at all the tables, there are 32

1 combinations of site and regeneration treatments?

2 A. Yes.

3 Q. Correct?

4 A. Yes.

5 Q. Now, if we look at these tables --  
6 and while you're on page No. 7.

7 A. Yes.

8 Q. Pardon me, I'm sorry, Table No. 7 on  
9 page 13.

10 A. Yes.

11 Q. There is a third column in this  
12 table, and in all of the other ones which we will go  
13 through in a minute, but the third column is  
14 significance of what they call the T-test.

15 And my understanding, sir, is that is  
16 just an indication of whether the difference between  
17 the results reported to the left of that column; i.e.,  
18 the results in the clearcuts and the strip cuts were  
19 statistically significant or not.

20 A. Yes.

21 Q. Is that right?

22 A. Yes.

23 Q. And would you agree with me that in  
24 the case of the current annual height increment on  
25 lowlands, there was -- the differences, if any, were

1 not of statistical significance; that's what it  
2 reports, NS all the way down the line?

3 A. Yes.

4 Q. Turn back a page to Table 6. Under  
5 the eight situations we have seven differences, if any,  
6 or differences which were not statistically  
7 significant, but we have one, the results on the dark  
8 peat using paper pots?

9 A. Mm-hmm.

10 Q. Has a little star there in the  
11 right-hand column, and that indicates that the  
12 difference was statistically significant at the 5 per  
13 cent level, and we see that by looking at the little  
14 legend at the bottom of the table?

15 A. Yes.

16 Q. And in that particular case the  
17 result was better in the clearcut, and that was the  
18 difference which was statistically significant?

19 A. Level, yes.

20 Q. Right. 62 was the total height  
21 increment in the clearcut and 46 in the strip cuts, and  
22 that was statistically significant?

23 A. Yeah.

24 Q. Go back to Table 5 and here of the  
25 eight reported situations, six the differences are not

1 statistically significant, 1 of them - I just want you  
2 to confirm that I'm reading these right - one of them,  
3 the T-test was not applied because, as indicated at the  
4 bottom of the table in the footnote, only one replicate  
5 contained living trees?

6 A. Correct.

7 Q. And we have one situation where there  
8 was statistical significance, and in this case the  
9 strip cut got a better result in terms of current  
10 annual height increment; is that correct?

11 And -- yes? Yes, you agree with that?

12 A. Well, it's written there, yes.

13 Q. All right. And we go back to Table 4  
14 and we can read the table again here, and out of the  
15 eight there were seven that could be reported in terms  
16 of results, in only two of them was there statistical  
17 significance, and in both of those cases the strip cut  
18 is reported to have done better than the clearcut;  
19 okay?

20 A. What has that to do --

21 Q. What that suggests to me, Mr. Marek,  
22 is that out of 32 combinations of site and regeneration  
23 treatments only four had differences which were  
24 significant at the 5 per cent level, one of those had  
25 better results in clearcuts, and three of them had



1 better results in strip cuts.

2 And I would suggest to you that that does  
3 not support your proposition that you made this morning  
4 that the regeneration in strip cuts, and to use your  
5 words, grew much better than in the clearcuts?

6 A. Sir, read the recommendation of the  
7 author what he states. Never mind --

8 Q. And I'm looking at the results. Do  
9 the results support the proposition that you made?

10 A. May I -- Madam Chair, may I quote:

11 "Uplands: For both the clearcut and  
12 strip cut..."

13 MR. MARTEL: What page are you on?

14 THE WITNESS: On page 9, same report.

15 MR. FREIDIN: Q. You are going to the  
16 words at the right-hand side of the table, sir?

17 A. No, left-hand side.

18 "Total and incremental height growth.  
19 For both the clearcut and strip cut the  
20 planted trees were taller in 1982 than  
21 the trees originating from either  
22 bareroot or shelter seed spots."

23 And so it goes:

24 "Comparison, two cutting methods show  
25 that planted and seeded trees on the

1 strip cut, mineral soil seedbed were  
2 generally taller and faster growing than  
3 those of clearcut area."

4 We are talking about statistic, man,  
5 which I don't think has no significance at all to the  
6 findings of the author who state in plain English that  
7 trees were taller.

8 Q. Let's worry about whether it is  
9 significant, the issue of statistical significance is  
10 significant or not. I suggest to you -- and I was  
11 quite aware of the passage on page 9.

12 A. Yes.

13 Q. The authors reported a difference,  
14 that's all they have done on page 9. I suggest to you,  
15 sir, that if one wants to determine whether the  
16 difference which was reported is of any significance,  
17 one normally will look and see whether there is any  
18 statistical significance to the difference, and these  
19 authors clearly indicate -- or the results clearly  
20 indicate--

21 A. That's better.

22 Q. --that the statistical  
23 significance -- there was only a statistical  
24 significant difference in four out of 32 cases, one  
25 which favored clearcuts, three which favored strip cuts

1 and that does not support your evidence that the strip  
2 cuts grew much better than the clearcuts, if one is  
3 worried about in any significant way.

4 A. Does this -- Madam Chair, does this  
5 support the author's statement which we just quoted  
6 here where the author, or Jeglum here in this case,  
7 states that No. 1, 2, 3, that trees he found taller in  
8 the individual treatment.

9 I'm sorry to say, this is -- why he wrote  
10 that report, why did he write these statements in the  
11 first place, he should have said statistically unsound,  
12 statistically it show that maybe, maybe not the trees  
13 are growing--

14 Q. Well, he didn't --

15 A. --in many instances, but he states  
16 very clearly - let me finish, please, because this is  
17 of significance of word plain, very plain these words,  
18 sir - why didn't Jeglum said what you are saying?

19 Q. Because, sir, he referred to Tables 4  
20 and 5 and a person who is experienced in reading these  
21 reports would go to the tables, read the tables, go  
22 through the tables, find out that in four of 32 cases  
23 there was a difference that was statistically  
24 significant and the conclusion one would come to, based  
25 on that, is that the report does not support a

1 proposition, a general bald statement that strip cuts  
2 grew much better than clearcuts in terms of  
3 regeneration.

4 That's what'm am suggesting to you, and  
5 if you don't agree with me, that's fine, just tell me  
6 so.

7 A. I don't agree with you.

8 Q. Thank you. We'll just move on.

9 A. Okay. Thank you.

10 Q. Mr. Marek, term and condition 2.1(a),  
11 this is the Exhibit 14 --

12 A. Again.

13 Q. FFT.

14 A. FFT, yeah. Okay. Silvicultural  
15 prescriptions, right, draft terms and conditions?

16 Q. Yes, sir.

17 A. Yes.

18 Q. Page 2. Do you have that?

19 A. Yes, I have it.

20 Q. The bottom one where you're talking  
21 about -- I'm sorry, paragraph 3.

22 A. Yes.

23 Q. Where it has been amended, and in  
24 this case we're talking about black spruce stands with  
25 some mixture of black pine or larch.



1 A. Yes.

2 Q. And you're talking about a  
3 three-coupe system and with the amendment now reads in  
4 1416A:

5 "The last strip shall be harvested only  
6 if the adjacent strips have been  
7 satisfactorily regenerated to a standard  
8 not less than 80 per cent stocking--"

9 A. Yes.

10 Q. "--to black spruce." Is that right?

11 A. Yes, yes, yes.

12 Q. There was a change there from the  
13 viable seed situation to this 80 per cent stocking?

14 A. That was misunderstanding due to  
15 typing and...

16 Q. Okay. My question for you is,  
17 when -- just one moment. There has been evidence led  
18 about how stocking standards are done, sort of  
19 five-year stocking assessments are done.

20 A. Assessments, yeah.

21 Q. Are you talking about this 80 per  
22 cent stocking being measured based on that same  
23 procedure?

24 A. Well, based -- I'm not arguing about  
25 should be one years, two years, five years. This is

1 again matter of gray discussion right now, when we  
2 should appraise or make conclusion on certain stock and  
3 density.

4 Q. I'm just wondering, is the method the  
5 same?

6 A. The method the same as compared to  
7 what?

8 Q. All right. The reason I ask you  
9 this, Mr. Marek, is if you go to one of your stands  
10 where you've got 200,000 little fellows and you were  
11 doing your stocking assessment there.

12 A. Yes.

13 Q. You would probably have a hundred per  
14 cent stocking every time.

15 A. Correct.

16 Q. If in fact you got that across the  
17 whole site?

18 A. That's correct. That's correct.

19 Q. What I want to know is, when should  
20 this stocking be done, this stocking assessment be  
21 done?

22 A. That's what I understood.

23 Q. And which method of stocking do we  
24 use, do we use the stocking method which is set out for  
25 instance in the 1981 Regeneration Survey Manual of

1 Ontario, or what do we do?

2 A. Oh, you are asking me now precise  
3 prescription which I would do it.

4 Q. I want to know how somebody -- if  
5 somebody has imposed upon them the obligation to do  
6 this, I want to make sure that they know if there is  
7 some information they should have as to when they  
8 should do it and which method?

9 A. Oh, sir, this is a subject which we  
10 being hotly discussed between provinces, between  
11 foresters, between individual organizations and every  
12 one of them has a different opinion about stocking and  
13 density -- not density, but stocking standards which  
14 may differ from Alberta to Nova Scotia. There is many  
15 methods do it.

16 Q. Would you be willing to leave it up  
17 to the Ministry of Natural Resources to determine when  
18 and how that stocking assessment should be done?

19 A. The timing of assessment?

20 Q. Yes.

21 A. The timing of assessment should be  
22 done -- I suppose first assessment should be done  
23 probably immediately after the area was regenerated or  
24 at least the project started to renew, and then I think  
25 the next one should be where the competition starts

1 moving in, and then I suppose farther assessment should  
2 be done when the problem of competition is resolved or,  
3 if it's not resolved.

4 And then the final assessment of dynamics  
5 of stands should be documented. That's very broadly,  
6 very broadly what I want to tell you.

7 MR. MARTEL: What was that last point,  
8 Mr. Marek?

9 THE WITNESS: The assessment should be  
10 done then later on.

11 MS. CRONK: Should be documented, Mr.  
12 Martel.

13 THE WITNESS: Or should be documented.  
14 Okay, would you repeat that?

15 MS. SWENARCHUK: When the problem of  
16 competition has been resolved or not.

17 THE WITNESS: When the problem of  
18 competition has been resolved or not resolved. In other  
19 words, if we have really free to grow or if we don't  
20 have a free to grow, and quote "free to grow".

21 MR. FREIDIN: Q. But in terms of making  
22 the assessment as to whether you got 80 per cent  
23 stocking so that you could go ahead and cut your third  
24 coupe, your third strip, when would you do that?

25 A. When the forester or forest manager



1 realize that he has stand growing which would tend to  
2 achieve crown closure and; in other words, the primary  
3 species established on the site is identified as firmly  
4 established and going to be a stand which we expect or  
5 which we desire.

6 Q. Okay, thank you. And a question  
7 going back to some of the earlier questions we talked  
8 about having to attempt natural regeneration before  
9 you -- and then if you fail, you go in and you  
10 artificially -- use artificial methods to supplement.  
11 Do you remember that, we had a long discussion about  
12 that, Mr. Marek.

13 A. Yes, yes.

14 Q. I would like to know how long do you  
15 wait to see whether you have failed before you can go  
16 in and use an artificial regeneration method?

17 A. Sir, that's a very individual, very  
18 specific decision where forester must go, investigate  
19 and see: Ah, here is such and such condition, then he  
20 immediately goes in and take the action. That is very,  
21 very valuable and I cannot tell you or pinpoint exactly  
22 when.

23 Q. So you have got to rely on the  
24 forester to make the determination as to when it has  
25 failed?

1 A. We discuss it, Madam, in my testimony  
2 what the role of foresters are in this circumstance.

3 Q. Thank you very much. Thank you very  
4 much. I'm trying to move along here, Mr. Marek.

5 If you go to the second paragraph in  
6 2.1(a) and in this case we're talking about black  
7 spruce stands or classified as unstable, fragile and  
8 sensitive with exposed bedrock, generally designated as  
9 protection forest reserves.

10 On those areas, you indicate that the  
11 width should not exceed one and one half times the tree  
12 height?

13 A. Yes.

14 Q. Now, we have a definition of  
15 sensitive in term and condition 2.3(b), if you turn  
16 over the page.

17 A. Of the FFT report?

18 Q. Yes, go to page 4.

19 A. Yes.

20 Q. You define sensitive sites, page 4.

21 A. Roman (iv)?

22 Q. No, no, I'm still talking about the  
23 Forests for Tomorrow?

24 A. Oh, I see.

25 Q. I'm sorry. In the Forests for

1 Tomorrow, page 4, you define sensitive sites, areas you  
2 say which are sensitive to the impacts of harvesting.

3 A. I don't define them, sir.

4 Q. All right. You describe situations  
5 where -- well, all right, what do you do there?

6 MS. SWENARCHUK: What paragraph are you  
7 looking at?

8 MR. FREIDIN: I'm looking at paragraph  
9 2.3(b).

10 THE WITNESS: 2.3(b). Yeah, "For each  
11 forest management unit..."

12 MR. FREIDIN: Q. I guess maybe you don't  
13 define them. You told us that there's a difficulty  
14 even trying to do that.

15 A. "For each forest management unit the  
16 MNR shall identify...", and is that what  
17 you're talking about?

18 Q. Right. You indicated that when  
19 you're talking about sensitive you really have to be  
20 talking about sensitive -- you have to answer the  
21 question, sensitive to what, sensitive in the air -- is  
22 that right?

23 A. Madam -- sir, we discussed this  
24 several times what fragile --

25 MADAM CHAIR: Yes, Mr. Marek, we have

1 your evidence that you would rather call them unstable  
2 sites--

3 THE WITNESS: Unstable.

4 MADAM CHAIR: --to encompass a wide range  
5 of possible conditions.

6 THE WITNESS: Right. And there is also  
7 document I think in the supplement which qualify  
8 actually some of the parameters of the so-called  
9 fragile sites or --

10 MR. FREIDIN: Q. Can I put it to you  
11 this way: When you talk about unstable, fragile and  
12 sensitive sites in 2.1 -- in the second paragraph of  
13 2.1(a).

14 A. 2.1(a).

15 Q. You're talking about -- 2.1(a), the  
16 second paragraph.

17 A. 2.1(a), yeah.

18 Q. When you're talking about unstable,  
19 fragile and sensitive sites, can I assume that what  
20 you're talking about are the sites referred to on page  
21 4 which you describe as being sensitive to the impacts  
22 of harvesting by reason of nutritional status, slope,  
23 soil depth, soil type and texture or drainage?

24 A. Some of the parameters, yes.

25 Q. All right.



1 A. Those are some of these parameters.

2 Q. Are any of the other parameters  
3 defined or stated anywhere in the terms and conditions?

4 A. I think we are talking about  
5 biological stability and, sir --

6 Q. This is biological -- or this is  
7 forest stability and that sort of thing that Van  
8 Miegroet talks about when you talk about forest  
9 stability?

10 A. That's right.

11 Q. All right. Well, we'll deal with  
12 that - not now. All right. So that's helpful. You  
13 indicate in the second paragraph on page 2 under  
14 2.1(a) --

15 A. Yes.

16 Q. You make reference to the FEC guides,  
17 improved versions. Are those the ones that have been  
18 marked as exhibits, or are those the ones which you  
19 believe will exist if in fact they are improved, as you  
20 have suggested?

21 A. I didn't -- what are you talking  
22 about, sir? Madam...

23 Q. All right. And I know it's late.  
24 See the second paragraph on page 2 under the heading  
25 black spruce working group?

1 A. Yes.

2 Q. It says -- it makes reference in the  
3 third line to the FEC guides, but then it's got, comma,  
4 'improved versions'. What does improved versions mean?

5 A. Oh. Improved versions we talk about  
6 improved version of the ecosystem -- you talk about  
7 ecosystem, FEC.

8 Q. That's what it says here.

9 A. That's right.

10 Q. And I want to know what improved  
11 versions means?

12 A. Just we are clear what we are talking  
13 about.

14 Q. Yes.

15 A. I dealt with it, Madam.

16 MADAM CHAIR: Yes. And Mr. Freidin is  
17 asking, if your proposals were implemented, that would  
18 be the improved version, it's not just the latest  
19 publication?

20 THE WITNESS: No, no, no. This has not  
21 been done.

22 MADAM CHAIR: It has not been done.

23 MR. FREIDIN: Q. That's all I want to  
24 know and I think we have your evidence on -- I may  
25 discuss it later, but I have your evidence on that.

1 Thank you very much.

2 A. You are welcome.

3 Q. You make reference in that paragraph  
4 about - if I can get it in context - on black spruces  
5 sites classified as unstable, fragile and sensitive  
6 with exposed bedrock generally designated as protection  
7 forest reserve. Would you agree with me, sir, that all  
8 protection forest reserve--

9 A. And production --

10 Q. --or production forest?

11 A. No, no, they are two different  
12 concepts, sir. There is difference between.

13 Q. Did I say production?

14 A. Well, I don't know which one you  
15 said, but I just want to pay attention to one thing,  
16 that we have two concepts here, production and  
17 protection forest.

18 Q. All right. And you're talking here  
19 about protection forest reserve?

20 A. I talking about both of them.

21 Q. I know, but -- well, are you saying  
22 that they're synonymous, the same?

23 A. No, they are not, but I am dealing  
24 with both as defined by government, by the ground rules  
25 and also by some of the new inventories.

1 Q. But the words here talk about  
2 protection forest reserves. Doesn't use the word  
3 production forest reserves, only uses the one.

4 A. It does not, it does not.

5 Q. And so this term and condition is  
6 only talking about areas designated as protection  
7 forest reserves?

8 A. In the inventory as we have now or in  
9 the past, that's a PFR mean protection forest reserve.

10 Q. All right.

11 A. Which encompasses probably both in  
12 that new version and I am confusing again, Madam, but  
13 the fact is --

14 Q. No, I know this is a bit of a  
15 confusing area.

16 A. Yes, very much so.

17 Q. I think it's your -- is it your  
18 evidence that protection forest reserves in the old  
19 inventory had a different meaning --

20 A. No, no, that has a specific  
21 classification.

22 Q. No, no, no, no, just let me finish my  
23 question. Do I understand your evidence that  
24 protection forest reserve in the old inventory has a  
25 different meaning than production forest reserve in the



1 present inventory?

2 A. Yeah, the parameters are somewhat  
3 different.

4 Q. All right. And when you're talking  
5 here about protection forest reserves, you're talking  
6 about as it was defined in the old inventory?

7 A. Right.

8 Q. Thank you.

9 A. PFR.

10 Q. Now, could you tell me, are all areas  
11 which would qualify -- you talk about here sites which  
12 would generally be designated as protection forest  
13 reserves. I take it from that, sir, that just because  
14 an area would be classified or qualified to be  
15 classified as protection forest reserves--

16 A. Yes.

17 Q. --according to the old definition--

18 A. Definition, yeah.

19 Q. --does not mean necessarily that it  
20 will be an unstable, fragile or sensitive site?

21 A. Would you repeat it again, please,  
22 what you just said?

23 Q. Would you agree that all protection  
24 forest reserves --

25 A. Yes.

1 Q. All of them are not unstable, fragile  
2 or sensitive, some of them are --

3 A. In protection forest reserve, the old  
4 PFR--

5 Q. Yes?

6 A. --encompasses certain sites which may  
7 or may not qualify in these two terms used presently in  
8 the classification of production forest reserves and...

9 Q. I'm just talking about the old. If  
10 you can just get your mind around the old definition.

11 A. Yes.

12 Q. Am I correct or am I incorrect that  
13 there are areas in the old inventory which would have  
14 been protection forest reserve but which would not be  
15 unstable, fragile or sensitive?

16 A. Oh, I think most of these -- from my  
17 experience, most of these area qualify that they are  
18 unstable.

19 Q. Thank you.

20 A. And, therefore, go under the category  
21 of protection forest in the old inventory.

22 Q. All right. Most of them, but not all  
23 of them?

24 A. Sir --

25 Q. All right, I've got your evidence.

1 A. There are exceptions to everything.

2 Q. And in terms of production forest  
3 reserve -- well, let's not worry about that, we have  
4 your -- you don't use that word there.

5 Okay. In the third paragraph when you  
6 talk about:

7 "In all black spruce stands with some  
8 mixture of jack pine or larch...", can  
9 you give me any ballpark figure as to what you're  
10 talking about in terms of the percentage of jack pine  
11 or larch that must be in the black spruce stand before  
12 this third paragraph --

13 A. Well, obviously the jack pine is in  
14 the minority and it may vary from .1 maybe to .2 or  
15 even in some cases .3, but in general it's a minority  
16 the representation in the black spruce working group,  
17 or the black spruce stand.

18 Q. So if I understand you correctly, if  
19 you've got a 10 per cent component or more in the black  
20 spruce stand--

21 A. Yes.

22 Q. --of jack pine, then the third  
23 paragraph is the method that in fact must be used?

24 A. Yes, yes. I can see where you are  
25 talking, yes.

1 Q. Is that right?

2 A. Yeah.

3 Q. Thank you.

4 A. I consider it's a black spruce stand  
5 more or less, it's got --

6 Q. In the situation that I gave you, it  
7 would be a black spruce working group?

8 A. That's right.

9 Q. Okay. Would you turn the page,  
10 please, to page 3.

11 A. Same guidelines.

12 Q. Same, FFT. This is the one where we  
13 talk about in the second line, we're talking here about  
14 mixed woods, and you indicate in the second line that:

15 "Balsam fir growth shall be harvested and  
16 advance growth eliminated by specific  
17 site preparation."

18 A. That's correct.

19 Q. And are you suggesting that that be  
20 done even if there's no market for the balsam fir?

21 A. That is correct.

22 Q. Where would you suggest that the wood  
23 be put if it's harvested but there's no market for it?

24 A. If it's useless wood it's got to be  
25 disposed someplace, and that is usually by mounting it



1 or forwarding in the piles. It has to be destroyed  
2 because it's dangerous component of the system.

3 Q. Okay. So it would be put on these  
4 piles, these windrows?

5 A. Can be burned off too. I mean, that  
6 stuff burns very easily under certain conditions too.  
7 It could be burned, that has been done quite  
8 frequently.

9 Q. You have got -- if you go down the  
10 page on page 3 and it's got aspen -- just the last --  
11 just above (d), it says:

12 "Aspen shall be utilized and not left to  
13 seed trees."

14 Do you see that?

15 A. "Aspen shall be utilized and not left  
16 as seed trees." That is correct.

17 Q. I'm going to ask you the same  
18 question. What if there's no market for the poplar  
19 that you have to cut down, where do you put it?

20 A. Should be removed from the site and  
21 if it cannot be removed, should be left cut down on the  
22 ground.

23 Q. All right. Scattered across the site  
24 or in windrows or does it matter?

25 A. Well, I don't think -- it's

1 immaterial. If you pile it up you are, of course,  
2 eliminating that area from the production because it  
3 create awful mess, if you try just cut it and leave it  
4 on the ground, that way you are going to simplify these  
5 things and you are going to make the total area  
6 accessible for silvicultural treatment.

7 Q. All right. How do you treat the  
8 suckers that come in after you harvest aspen?

9 A. Oh, now we are what I was waiting  
10 for.

11 Q. And we're talking here about mixed  
12 wood stands?

13 A. No, no, it goes to the previous  
14 question done by the counsel for the Industry which  
15 present me with a kind of thing I didn't understand  
16 what she was talking about, Madam Chair, it's the  
17 bulldozing of poplar, remember?

18 MADAM CHAIR: Yes, Mr. Marek.

19 THE WITNESS: Okay. Let's go to that  
20 because after she give it to me I give it some thought,  
21 and while at first didn't comply with the answer  
22 because all of a sudden I didn't know what she was  
23 talking about, now elimination -- it's well-known,  
24 Madam Chair, that the ingrowth of poplar can be very  
25 aggressive; one tree can produce thousands of suckers

1 and one tree can produce ten thousands of seeds.

2 What Madam Cronk was talking about was  
3 that here -- bulldozing of the root system, bulldozing  
4 by scraping the top layer off the site to remove the  
5 parts of the root systems left from the poplar tree,  
6 goes -- that's a root system which poplar usually have.

7 Now, what Eddy does - and I thought of it  
8 later on, that obviously what he's talking about too -  
9 eliminate the suckering, we bulldoze this off, scrape  
10 this area, and by doing so remove many of these  
11 opportunity of these suckers to germinate or to set the  
12 bud - they don't germinate - set the bud, thus, leaving  
13 area fairly free of these parts of the root system  
14 which produce the suckers.

15 Now, what they do, of course, they  
16 bulldoze it and there is pile of bulldozed material,  
17 there is a pile of bulldozed material, and this is  
18 fairly clear for planting.

19 Now, this method has been used for  
20 centuries matter of fact and there are very good  
21 documentation on this problem. One problem with this  
22 kind of approach is that by removing certain layers of  
23 the topsoil, thus bulldozing off or removing these  
24 suckers, you cannot totally remove them because the  
25 suckers are not like black spruce root system, suckers,

1 or their root system go much deeper; in other words,  
2 they are still left over from the residual tree in the  
3 grounds.

4 So immediately of course, No. 1, is that  
5 all not suckering can be removed due to the remnants of  
6 some of these root systems; and, No. 2, is - which is  
7 much more dangerous - that by any scraping of mineral  
8 soil and the organic material - which as you probably  
9 heard from me on many occasion is a part of very  
10 important component of site as far as productivity is  
11 concerned - we are removing very valuable nutrient  
12 capital from the site, piling it up on these piles  
13 beside the corridors established. So while you may  
14 eliminate some suckering you don't eliminate all of it.

15 And there is very interesting research  
16 done in Alberta right now with poplar, with poplar  
17 which states this, that these suckers, in many  
18 instances, can take over the site regardless of their  
19 numbers. In other words, when you leave a thousand  
20 remnant root system with the suckering potential, it  
21 doesn't make any difference how many you leave. If you  
22 leave only few, trembling aspen is capable to ingress  
23 the total area and revert into poplar.

24 This is just coming out of Alberta Forest  
25 Service, several experiments done, and which leads me



1 to believe that there are two points to consider; No.  
2 1, you may remove some suckering opportunity, you don't  
3 remove it totally; No. 2, by doing this you are  
4 removing the most valuable part of the components of  
5 the topsoil.

6 MR. FREIDIN: Okay, Mr. Marek.

7 MS. CRONK: Excuse me, Mr. Freidin, I  
8 apologize. Madam Chair, may I address the Board on  
9 this matter?

10 MADAM CHAIR: Yes, Ms. Cronk.

11 MS. CRONK: Madam Chair, you will recall  
12 that towards the very end of my cross-examination on  
13 Monday I put a series of questions to Mr. Marek about  
14 this issue. After I had completed that  
15 cross-examination I came back after lunch, Mr. Marek  
16 indicated there was something additional he wished to  
17 say about the matter, having had a chance to consider  
18 it further, and the indication from the Board, which  
19 was entirely acceptable, was that he do so in  
20 re-examination.

21 The difficulty the evidence just given  
22 now presents me is that I did not have a chance to  
23 cross-examine Mr. Marek on matters particular to a  
24 practice which the Board has heard relates to Eddy, and  
25 I would like the right to follow up on very brief

1 questions to Mr. Marek about this matter at the  
2 appropriate time.

3 MADAM CHAIR: The appropriate time being  
4 before Mr. Marek is finished on Monday?

5 MS. CRONK: Yes. And at the end of the  
6 day, so that I don't interrupt further my friend, if I  
7 could address the Board about that timing aspect, yes.

8 MADAM CHAIR: I think, Ms. Cronk, that we  
9 have no objection to you asking further questions and  
10 we would ask that it be kept very short, 10 minutes or  
11 shorter, that you follow immediately after Mr. Freidin  
12 and before Ms. Seaborn.

13 MS. CRONK: Well, if I could then take a  
14 further moment of the Board's time and address the  
15 matter now.

16 You will recall that there is another  
17 issue as well relating to a report that we heard about  
18 for the first time yesterday, the Domtar report, that  
19 Mr. Marek is to produce.

20 MADAM CHAIR: Yes.

21 MS. CRONK: And I had indicated that I  
22 wanted an opportunity, obviously, to get instructions  
23 about that and become informed about it and ask some  
24 questions about it, if that's appropriate - it may not  
25 be at all, I don't know, I haven't seen the document,

1 I'm not aware of it - and I can absolutely assure the  
2 Board that whatever questions I do ask with respect to  
3 those matters will be quite brief indeed.

4 Having said that I did not anticipate the  
5 progress of matters this week quite the way they have  
6 turned out and I'm obliged to inform the Board that I  
7 have a scheduled appearance in Federal Court of Appeal  
8 on Monday and Tuesday of next week, it's going to be --  
9 that cannot be reassigned to another partner involved  
10 and, in the circumstances, my suggestion was going to  
11 be this, that if the Board would permit me to do it,  
12 either Mr. Cosman will be present to ask the questions  
13 about which I speak or, alternatively, if my friend Mr.  
14 Freidin is prepared stand down for 15 or 20 minutes  
15 first thing on Monday morning at nine o'clock or ten  
16 o'clock - I forget when the Board was going to  
17 reconvene on Monday - at 10:00, to address that matter  
18 and be complete. That assumes, of course, that I've  
19 seen the Domtar report.

20 I would obviously prefer not to put Mr.  
21 Cosman in a position of having to do so when he wasn't  
22 here for the evidence, but I'm in the Board's hands and  
23 I recognize it's difficult, given my schedule, but I  
24 can't do anything about it.

25 MADAM CHAIR: Well, I think the Board

1 will accommodate, Ms. Cronk. The problem on Monday is  
2 that Mr. Martel has no control over Air Canada and  
3 we've learned the last month that that plane can arrive  
4 at any time.

5 MS. CRONK: Well, I'm on the list for  
6 Monday afternoon, Madam Chair, in court.

7 MADAM CHAIR: All right.

8 MS. CRONK: With the argument in the  
9 matter under appeal to commence either Monday afternoon  
10 or Tuesday.

11 I quite agree that any questions I may  
12 have must precede Ms. Swenarchuk, and all I'm  
13 suggesting is that if there's no severe objection to  
14 it, that that be done before Mr. Freidin completes in  
15 order that I might do it.

16 MADAM CHAIR: Right.

17 Ms. Swenarchuk?

18 MS. SWENARCHUK: Just really for the  
19 convenience of, Ms. Cronk, with regard to the Domtar  
20 report, I understand that it's in Beardmore.

21 THE WITNESS: I have it home, yes.

22 MS. SWENARCHUK: Yes. And so Mr. Marek  
23 will be bringing it back and it will be available  
24 Monday. I don't know that it will be available before.

25 MADAM CHAIR: What time does Mr. Marek



1       come -- do you come in Monday morning, Mr. Marek?

2                   THE WITNESS: I'm coming here Saturday,  
3       Madam.

4                   MS. SWENARCHUK: Saturday when?

5                   THE WITNESS: Saturday afternoon.

6                   MADAM CHAIR: We'll leave it with you,  
7       Ms. Cronk, and Ms. Swenarchuk to sort out.

8                   MS. CRONK: We'll sort that out and I'll  
9       a copy over the weekend.

10                  MADAM CHAIR: Thank you very much.

11                  MS. CRONK: Thank you, I appreciate it.

12                  MR. FREIDIN: Madam Chair,  
13       notwithstanding my amusement of the phrase that we  
14       lawyers use about standing down, I will sit down and  
15       allow Madam Cronk --

16                  MS. CRONK: Some of us do stand, but I'm  
17       grateful for either.

18                  MR. FREIDIN: Yes, right. I have no  
19       objection to her interrupting what flow there may be to  
20       my cross-examination.

21                  MADAM CHAIR: Thank you, Mr. Freidin.

22                  MR. FREIDIN: Q. Okay. Now, in this  
23       section of the terms and conditions dealing with mixed  
24       wood management including white spruce, you indicate on  
25       page 3 that:

1 "Harvesting shall be by block cutting in  
2 various sizes depending on topography and  
3 sites."

4 A. That's what page, sir?

5 Q. On page 3--

6 A. 3.

7 Q. --in the fourth and fifth lines,  
8 "Harvesting..."

9 A. "Harvesting shall be block...", yes,  
10 I got it. Okay.

11 Q. Can you tell me, sir, is balsam fir a  
12 prolific seeder?

13 A. Very, very much so.

14 Q. Is there any return time -- you don't  
15 specify any return time in terms of when you can come  
16 back and cut the leave blocks. Was that your  
17 intention?

18 A. Yes, very much so. I wouldn't dare  
19 to prescribe here in more detail in mixed wood  
20 management, because mixed wood management is a -- if  
21 you're talking about black spruce management, the mixed  
22 wood management is much more, I would say, complex  
23 because you are dealing with very productive sites  
24 usually, not always, not always mixed wood is. But in  
25 general, mixed wood are, as indicator species, present

1 they are usually more productive than the other sites.

2 Q. Could you tell me what the rationale  
3 then is for the suggestion that the harvesting shall be  
4 done by block cutting?

5 A. Sir, I think there are two aspects of  
6 it. No. 1 is the ecological aspect of the land; in  
7 other words, proliferation of ingress of species which  
8 are usually occupying these sites and some restriction  
9 should be done in order to prevent poplar being seeded  
10 all over the countryside.

11 The second one is that in mixed wood  
12 management quite frequently site preparation occurs or  
13 actually should occur which may be quite drastic - and  
14 this is probably happening in mixed wood management,  
15 this corridor, it's probably mixed wood management.

16 The third one is the visual impact of  
17 large area clearcut on upland which usually can be seen  
18 far away; in other words, upland -- usually on upland,  
19 in other words, the higher elevated areas, then you can  
20 see them quite visibly; in swamps or in flat areas you  
21 don't see the effects of large clearcuts.

22 But when you compare this to the upland,  
23 yes, there is a certain vision, I think certain  
24 aesthetics involved and I feel that we should be  
25 probably restrict the large area cutting there to

1 smaller -- small blocks. So that's the reason, sir.

2 Q. Okay. If I can deal with the first  
3 two reasons which have implications in terms of  
4 regeneration.

5 A. Right.

6 Q. You made mention, the first one was  
7 ingress of species occupying the site?

8 A. Yes.

9 Q. You want to avoid that to prevent  
10 poplar being seeded all over the countryside?

11 A. That's right.

12 Q. If poplar, as you have indicated, is  
13 a prolific seeder and balsam fir, as you have said, is  
14 a prolific seeder--

15 A. Yes.

16 Q. --and you cut this in blocks and,  
17 therefore, what you're doing is leaving standing balsam  
18 fir and -- trembling aspen and standing balsam fir, are  
19 you not going to get seeding in of your block cut from  
20 those undesirable species?

21 A. Sir, balsam has a heavy -- did you  
22 ever see balsam seed? You probably didn't. Okay.

23 May I instruct you on looking at it,  
24 because balsam seed is very large, usually drop  
25 directly from the cones which open periodically every



1 year, and seed goes usually straight down. So there is  
2 not a great danger of balsam reseeding over the balance  
3 because just sheer size and weight of the seed.

4 Q. All right. That is balsam fir. Now,  
5 what about poplar where I think you indicated before  
6 that it seeds and it blows for miles and miles and  
7 miles?

8 A. See -- okay. Sir, here again we are  
9 talking about what size. If you going to clearcut area  
10 10 square miles and let the seeding done over 10 square  
11 miles, or if you leave that seeding done or ingress of  
12 poplar in, say, hundred acres or 200 acres, surely,  
13 surely there are certain implications, and...

14 Q. I'm sorry, I didn't catch your  
15 last...

16 A. There is certainly implications in  
17 size of the cut, indeed. If you have a large clearcut  
18 the balsam fir will not fly all over the country or  
19 cause the ingress of the spies, whereabout poplar will,  
20 because poplar seed is very tiny and, as you know, the  
21 fuzz which is eventually spraying over the countryside  
22 has this effect on seeding.

23 Q. Okay. And just one last question in  
24 relation to your answer.

25 A. Yes.

1 Q. You said the second reason was in  
2 mixed wood management site preparation occurs which may  
3 be quite drastic. Is that the sort of site prep that  
4 would provide seedbeds which would be equally receptive  
5 to any poplar or balsam fir which might blow in?

6 A. See, this is a problem.

7 Q. All right. But that is all I want to  
8 know, that is something which could occur?

9 A. Yes.

10 Q. Okay, thank you.

11 A. Yes.

12 Q. In the same paragraph you state in  
13 the last line before we get to jack pine working group,  
14 so we are talking about mixed wood still here,  
15 including white spruce -- mixed wood stands which  
16 include white spruce, it says:

17 "The planting of spruces white and black  
18 may be prescribed if economically  
19 feasible."

20 We had a discussion about--

21 A. Yes, we had.

22 Q. --economically feasible and present  
23 net worth back on page 2?

24 A. Yeah.

25 Q. I'm assuming that that is the method

1 by which one would determine economic feasibility,  
2 that's all I want to know.

3 A. Well --

4 Q. Same way that you did on page 2?

5 A. Yes.

6 Q. Thank you. Why haven't you provided  
7 for the opportunity to plant jack pine on these mixed  
8 wood sites when jack pine does in fact occur in mixed  
9 wood stands?

10 A. In intensively managed area, here we  
11 go again, goals and objectives.

12 Q. Well, does this section in relation  
13 to mixed wood management only relate to intensive  
14 areas?

15 A. Sir, when you consider every one of  
16 these paragraphs, every one of these sections, please  
17 keep in mind that this will be extremely affected by  
18 the goals and objectives for the certain area.

19 Q. Yes.

20 A. Now, I didn't do it here or the FFT  
21 didn't specifically go in details in this, where and  
22 what. We are talking in very broad generalities and I  
23 certainly feel strongly that if some guidelines will be  
24 adapted that these guidelines will be perfected, worked  
25 on, and more details supplied, and this is a very

1 general guideline.

2 Q. Do I take it, sir -- am I to take  
3 that answer as being an indication that these terms and  
4 conditions should not be looked upon -- or, pardon me,  
5 do not encompass or delineate all of the things -- I  
6 don't know how to put this question. It's almost four  
7 o'clock.

8 MR. MARTEL: You left some out.

9 MR. FREIDIN: I'll put a star a beside it  
10 and figure out how to deal with it. Well, I don't  
11 think I'll ask that one.

12 Q. But do you as a professional  
13 forester, Mr. Marek, have any objection to the planting  
14 of jack pine in a mixed wood site? As a professional  
15 forester do you have any objection--

16 A. In intensive management, yes.

17 Q. No, do you have any objection to the  
18 planting of jack pine in a mixed wood stand,  
19 particularly where jack pine formed part of the mixed  
20 wood stand to start?

21 A. As a site conversion to jack pine,  
22 yes; in intensive management, yes.

23 Q. You say it's okay in intensive  
24 management?

25 A. Yes, yes.



1 Q. All right.

2 A. Matter of fact that will be and is  
3 being done and will be done probably. Yes.

4 Q. But in this case you have indicated  
5 before that where natural regeneration -- well, in  
6 these mixed wood stands, can you plant - we're not  
7 talking about black spruce now - can you plant are --  
8 well, first of all, do you have to try natural  
9 regeneration first?

10 A. Well, jack pine that's --

11 Q. No, no, just -- my question is: In  
12 the mixed wood stands --

13 A. Sir, you are talking about the broad  
14 spectrum and try to get some foothold on where, when  
15 and how because it's so important in forestry because I  
16 know very well if I going to say yes, you going to take  
17 it as a gospel, and I am not preparing any gospels  
18 here, what I'm trying to tell you that there are broad  
19 outline and in many circumstances in these thousands of  
20 forests Baskerville talking about we going to have --  
21 no.

22 So, yes, there is an option in many  
23 instances that we will do jack pine management in mixed  
24 wood where jack pine was before and perform very well,  
25 perform very well; in other words, it's going to be a

1 good site which can support jack pine.

2 Yes, I don't have objection, but that has  
3 got to be qualified by the broad goals and objectives  
4 entrenched in that management planning process and  
5 timber management plan itself; in other words -- okay.

6 Q. I'm not sure I have a clear enough  
7 answer for my purposes. Can I take it from your answer  
8 then that you can indeed plant jack pine, I'm sorry, in  
9 an area which previously was mixed wood?

10 A. Mixed wood poplar, like for instance  
11 on Eddy, he's got lots of mixed wood stands, poplar and  
12 jack pine to certain proportions.

13 Q. Can you go on those areas and plant?

14 A. That's why they do this, it's all  
15 jack pine.

16 Q. Can you go on those areas and plant  
17 jack pine?

18 A. Well, that's what they do right  
19 there, they plant jack pine in these corridors.

20 Q. According to these terms and  
21 conditions, is that permitted in those stands?

22 A. In intensive management?

23 Q. In intensive management it's  
24 permitted; in multi-purpose -- yes?

25 A. As a prescription in timber

1 management plan.

2 Q. Yes.

3 A. Approved by and so on.

4 Q. The answer is yes, in intensive  
5 management areas as set out in the timber management  
6 plan.

7 A. Yes.

8 Q. Is it permitted, according to these  
9 terms and conditions, in multi-purpose forests?

10 A. No, no.

11 Q. Do I take it then that the planting  
12 of spruces white and black - wait a minute, let me  
13 finish - that the planting of spruces black and white  
14 then is only permitted in a mixed wood stand or after a  
15 mixed wood stand has been harvested only in areas where  
16 they have been identified as single-purpose timber  
17 management; i.e., intensive forestry in the timber  
18 management plan?

19 A. That's maximization of forest, yes.

20 Q. Okay.

21 A. Madam Chair, can you visualize this  
22 kind of treatment, successive spray, chemical tending  
23 and so on area in multi-purpose forestry.

24 I like to appraise the situation, what  
25 that mean multi-purpose forestry, where you eliminate



1 poplar completely, plant jack pine over and tend two  
2 and three times, or maybe once, I don't know.

3 That is not my view, sir and Madam, for  
4 multi-purpose forestry, or design of multi-purpose  
5 forestry, because you would have a conflict right from  
6 the beginning: What are you going to do with moose,  
7 what are you going to do with other things, and here we  
8 go again.

9 MADAM CHAIR: Time up, Mr. Freidin?

10 MR. FREIDIN: I think it's time to break,  
11 Madam Chair.

12 MADAM CHAIR: Thank you. We will see you  
13 Monday morning and Monday might be your last day with  
14 us, Mr. Marek.

15 THE WITNESS: What a pity.

16 MADAM CHAIR: And again, we will try to  
17 begin at 10:30 on Monday. We just don't know. Let's  
18 aim for 10:30 and see what happens. The plane just  
19 hasn't been arriving for a ten o'clock start.

20 Thank you.

21 ---Whereupon the hearing adjourned at 4:00 p.m., to be  
22 reconvened on Monday, November 26th, 1990,  
23 commencing at 10:30 a.m.

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